

Giddings,
Glover,
Hale,
Hamilton,
Hanna,
Harmer,
Harris, Benj. W.
Harris, John T.
Harrison,
Hartzell,
Hatcher,
Hazelton,
Hendee,
Henderson,
Henkle,
Herbert,
Hubbell,
Humphrey,
Hungerford,
Huntton,
Ittner,
Jones, Frank
Jones, John S.
Keifer,

Keightley,
Kelley,
Kenna,
Ketcham,
Kimmel,
Landers,
Lapbam,
Lindsey,
Lockwood,
Luttrell,
Lynde,
Maish,
Majors,
Marsh,
Martin,
Mayham,
McCook,
McGowan,
McKenzie,
McKinley,
Metcalfe,
Mitchell,
Menroe,
Morgan,

Morse,
Muller,
Neal,
O'Neill,
Overton,
Page,
Patterson, T. M.
Phillips,
Pound,
Powers,
Pridemore,
Pugh,
Rainey,
Rea,
Rice, Americus V.
Robinson, M. S.
Ross,
Sampson,
Sapp,
Sexton,
Southard,
Sparks,
Springer,
Stenger,

Stewart,
Stone, John W.
Strait,
Thompson,
Throckmorton,
Tipton,
Townshend, R. W.
Vance,
Van Vorhes,
Veeder,
Ward,
Watson,
White, Harry
Whitthorne,
Wigington,
Williams, Andrew
Williams, C. G.
Williams, Jere N.
Williams, Richard
Willis, Benj. A.
Willits,
Wood,
Wright,
Yeates.

NOT VOTING—33.

Bagley,
Banning,
Beebe,
Bland,
Bouck,
Butler,
Cain,
Clafin,
Clarke of Kentucky,

Covert,
Cox, Jacob D.
Davis, Horace
Evans, James L.
Ewing,
Freeman,
Gibson,
Hart,
Hewitt, Abram S.

Hiscock,
Hunter,
Killingier,
Potter,
Reed,
Riddle,
Robertson,
Sayler,
Sinnickson,

Stephens,
Swann,
Walsh,
Wilson,
Wren,
Young, Casey.

So the motion to concur in the amendment of the Senate was not agreed to.

During the roll-call the following announcements were made:

Mr. ELLIS. My colleague, Mr. GIBSON, is paired with Mr. REED, of Maine.

Mr. BOUCK. I am paired with Mr. CLAFIN, of Massachusetts. If he were present, I should vote "no."

The result of the vote was then announced as above recorded.

Mr. CONGER moved to reconsider the vote by which the amendment of the Senate was non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HUNTON. I move that the House do now adjourn.

The motion was agreed to.

And accordingly (at ten o'clock and fifty-five minutes a. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BAKER, of New York: The petition of women of Georgetown, New York, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. BELL: The petition of W. P. Price, president of the board of trustees of the North Georgia Agricultural College, relating to the loss of certain arms and accouterments by fire—to the Committee on Military Affairs.

By Mr. BICKNELL: The petition of Augustus Miller and others, of Bartholomew County, Indiana, for the prohibition of unjust discrimination by common carriers—to the Committee on Commerce.

By Mr. BLACKBURN: The petition of G. W. Riggs and others, of "the committee of one hundred," of Washington City, District of Columbia, for the improvement of the river-front flats opposite said city—to the Committee for the District of Columbia.

By Mr. BOYD: The petition of Mrs. M. T. Brearley and other women, of Canton, Illinois, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. BREWER: Resolution of the Legislature of Michigan, relating to securing homestead rights to settlers upon certain so-called railroad lands in the counties of Allegan, Ionia, Kent, Muskegon, and Ottawa, Michigan—to the Committee on Public Lands.

Also, resolution of the Legislature of Michigan, favoring an appropriation for a harbor of refuge at Mackinac Island—to the Committee on Commerce.

Also, resolution of the Legislature of Michigan, favoring legislation to prevent the adulteration of sugar—to the Committee on Agriculture.

Also, resolution of the Legislature of Michigan, favoring legislation to prevent the adulteration of honey—to the same committee.

By Mr. CANDLER: Memorial of the Catholic citizens of the fifth congressional district of Georgia, asking for the appointment of Catholic chaplains in the Army and Navy in proportion to the number of Catholics in these services; also, calling attention to the manner in which Catholic Indians are deprived of their rights, and asking for relief—to the Committee on Naval Affairs.

By Mr. COBB: Resolutions adopted by the Mexican Veteran Association at a meeting held on the 22d January, 1879, at Indianapolis, Indiana, favoring the passage of the bill to place on the pension-roll the names of the surviving soldiers of the Mexican war—to the Committee on Invalid Pensions.

By Mr. COX, of New York: The petition of Henry Hagerty and

others, for compensation for labor done for contractors and others in the city of Washington, District of Columbia—to the Committee on Education and Labor.

By Mr. CUMMINGS: The petition of the Independent Union League, of Winterset, Iowa, for a reduction in the salaries of Federal officers—to the Committee on Appropriations.

By Mr. DEAN: The petition of Harris & Davis and others, against the manufacture of cigars in any house used as a dwelling—to the Committee of Ways and Means.

By Mr. DIBRELL: The petition of Polk County (Tennessee) Grange, for a reduction of the tax on tobacco—to the same committee.

Also, the petition of Polk County (Tennessee) Grange, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

By Mr. EAMES: The petition of Henry Lippitt and others, citizens of Rhode Island, for a signal station on Block Island—to the Committee on Appropriations.

By Mr. FORT: Memorial of the Legislature of Illinois, favoring the permanent improvement of Quincy Bay—to the Committee on Commerce.

By Mr. KEIGHTLEY: Resolution of the Legislature of Michigan, asking for the construction of a harbor of refuge at Mackinac, Michigan—to the same committee.

Also, resolution of the Legislature of Michigan, asking for the passage of a bill to prevent the adulteration of honey—to the Committee on Agriculture.

Also, resolution of the Legislature of Michigan, for legislation to prevent the adulteration of sugar—to the Committee on Manufactures.

By Mr. KNAPP: Resolution of the Legislature of Illinois, favoring the permanent improvement of Quincy Bay—to the Committee on Commerce.

By Mr. MCMAHON: The petition of wholesale and retail dealers in manufactured tobacco, of Dayton, Ohio, against the Senate amendments to the internal-revenue bill, fixing May next as date of its effect instead of April 1, 1879—to the Committee of Ways and Means.

By Mr. MORRISON: Memorial of the Illinois Legislature, favoring the permanent improvement of Quincy Bay—to the Committee on Commerce.

By Mr. MORSE: The petition of George W. Warren and 200 others, citizens of Boston, Massachusetts, against the proposed extension of the McKay sewing-machine patent—to the Committee on Patents.

Also, the petition of the heirs and assigns of John Ridgway, late of Boston, Massachusetts, for the extension of the patent granted said Ridgway in October, 1862, for an improvement in operating ordinance—to the same committee.

By Mr. NORCROSS: Memorial of the Fitchburgh (Massachusetts) Board of Trade; of Putnam Machine Company; of Walter Haywood Chair Company, and other companies and individuals, against the passage of Senate bill 300, relating to patents—to the same committee.

By Mr. PATTERSON, of New York: The petition of 150 ladies, of Salamanca, New York, for legislation to make effective the anti-polygamy law—to the Committee on the Judiciary.

By Mr. SINICKSON: The petition of Jane T. Moore, and 118 others, of Vineland, New Jersey, for an amendment to the Constitution prohibiting the several States from disfranchising United States citizens on account of sex—to the Committee of Elections.

By Mr. SPARKS: Resolutions of the Legislature of Illinois, in relation to the improvement of Quincy Harbor for the protection of steamboats—to the Committee on Commerce.

By Mr. TIPTON: Resolution of the Legislature of Illinois, of similar import—to the same committee.

By Mr. WILLIS, of New York: The petition of James K. H. Wilcox, for compensation for services rendered the Committee on Expenditures in the Treasury Department, House of Representatives—to the Committee of Accounts.

By Mr. WILSON: The petition of C. W. Rogers, master of Elizabeth (West Virginia) Grange, and others, for the passage of the interstate commerce bill—to the Committee on Commerce.

Also, the petition of William Rittenhouse, master, and George J. Wetzel, secretary of Burning Springs (West Virginia) Grange, of similar import—to the same committee.

IN SENATE.

MONDAY, February 24, 1879.

The Senate met at eleven o'clock a. m.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of the proceedings of Saturday last was read and approved.

HOUSE BILLS REFERRED.

The bill (H. R. No. 11) granting a pension to Agnes Fairly, widow of David Fairly, was read twice by its title, and referred to the Committee on Pensions.

The bill (H. R. No. 1243) for the relief of Josephine C. Owen, postmaster at Randolph, New York, was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Naval Affairs:

A bill (H. R. No. 5050) to authorize the settlement of the accounts of Acting Assistant Paymaster Edward K. Winship, United States Navy; and

A bill (H. R. No. 6469) for the relief of Mrs. Elizabeth P. Page.

ACCEPTANCE OF THE JEANNETTE.

The VICE-PRESIDENT. The Chair calls the attention of the Senator from California [Mr. SARGENT] to the following bill from the House of Representatives, which he lays before the Senate:

The bill (H. R. No. 6150) authorizing the Secretary of the Navy to accept, for the purposes of a voyage of exploration by way of Behring Strait, the ship Jeannette, tendered by James Gordon Bennett for that purpose, was read twice by its title.

Mr. SARGENT. Considering the late hour of the session and that the object of the bill is in the interest of scientific exploration and is to be at the expense of a private citizen, I hope the Senate will allow it to be put upon its passage. The prominent feature of the bill is to allow the sailors who are to be taken to be enlisted by the Secretary of the Navy, in order that there may be naval or, in other words, military discipline on board the vessel. We furnish the naval officers, and the object of the bill is to put the seamen under their control as they would be upon a United States vessel. The expenses of the expedition are to be defrayed entirely by Mr. Bennett, and I believe the purpose is that this amount shall be deposited in advance. I therefore hope the Senate will allow the bill to be passed without a reference.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill authorizes the Secretary of the Navy to accept and take charge of, for the use of a North Polar expedition by way of Behring Strait, the ship Jeannette, owned by James Gordon Bennett, and by him devoted to this purpose. He may use, in fitting her for her voyage of exploration, any material he may have on hand proper for the purposes of an arctic voyage. He is further authorized to enlist the necessary crew for the vessel for "special service," their pay to be temporarily met from the "pay of the Navy," and to be paid or refunded by James Gordon Bennett to the Navy Department under the order of the Secretary of the Navy and as he may require; the vessel to proceed on her voyage of exploration under the orders and instructions of the Navy Department. The men so "specially enlisted" are to be subject in all respects to the articles of war and Navy regulations and discipline. The Government of the United States is not to be held liable for any expenditure incurred or to be incurred on account of the exploration.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MEMORIAL ADDRESSES ON THE LATE MR. SCHLEICHER.

The VICE-PRESIDENT laid before the Senate the following concurrent resolution from the House of Representatives; which was referred to the Committee on Printing:

Resolved, (the Senate concurring.) That there be printed 20,000 copies of the memorial addresses delivered in the Senate and House of Representatives upon the life and character of Hon. GUSTAVE SCHLEICHER; 15,000 for the use of the House, and 5,000 for the use of the Senate.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented the petition of Mrs. S. E. Merriam and 16 other women, of East Providence, Rhode Island, praying for the passage of an act making effective the anti-polygamy law of 1862; which was referred to the Committee on the Judiciary.

Mr. PADDOCK. I present a joint resolution, in the nature of a memorial, of the Legislature of the State of Nebraska, relating to the subject of the transfer of the Indian Bureau to the War Department. As this is a subject of special importance to my State, as well as of general importance to the whole country, and as it is very brief, I ask that it be read.

The VICE-PRESIDENT. It will be reported.

The memorial was read, and ordered to lie on the table, as follows: A joint resolution relative to the transfer of the Indian Bureau to the War Department.

Be it resolved by the senate and house of representatives of the State of Nebraska, That the Indian Bureau should be transferred to the War Department, believing it will give greater protection to our exposed settlers, and that it will result in curtailing the expenses of the nation; and our Senators and Representatives in Congress are hereby requested to use all honorable means to accomplish the above-named transfer at as early a date as possible.

Resolved, That the secretary of state be, and is hereby, instructed to transfer a certified copy of this memorial and joint resolution to our Senators and Representatives in Congress.

EDMUND C. CARNES,

President of the Senate.

CHARLES P. MATTHEWSON,

Speaker of the House of Representatives.

Mr. MATTHEWS presented the petition of B. B. Stewart, and sundry other citizens, of Cincinnati, Ohio, praying for the passage of the bill (S. No. 1093) authorizing railroad companies to construct and maintain telegraph lines for commercial purposes, and to secure to the Government the use of the same for postal, military, and other purposes; which was ordered to lie on the table.

Mr. CAMERON, of Pennsylvania, presented a resolution of the

Chamber of Commerce of Pittsburgh, Pennsylvania, in favor of the passage of the joint resolution (H. R. No. 234) providing for a treaty with the Republic of Mexico; which was referred to the Committee on Foreign Relations.

He also presented the petition of J. B. Henry and others, citizens of Mifflin County, Pennsylvania, praying for the passage of the bill (H. R. No. 3547) to regulate interstate commerce and to prohibit unjust discriminations by common carriers; which was referred to the Committee on Commerce.

He also presented the petition of S. Morton and others, of Steuben, Crawford County, Pennsylvania; the petition of Cassie Bishop, of Rome, Crawford County, Pennsylvania; the petition of Eva Castle, of Steuben, Crawford County, Pennsylvania; the petition of Mary Streeter, of Steuben, Crawford County, Pennsylvania; the petition of Harriet R. Sterling, of Steuben, Crawford County, Pennsylvania; the petition of Mary Brainard, of Steuben, Crawford County, Pennsylvania; the petition of Emma Clement, of Steuben, Crawford County, Pennsylvania; the petition of Addie Kelley, of Steuben, Crawford County, Pennsylvania; the petition of Clara F. Strauss, of Steuben, Crawford County, Pennsylvania; the petition of Minerva J. Winton, of Steuben, Crawford County, Pennsylvania; the petition of Paulina Mann, of Steuben, Crawford County, Pennsylvania; and the petition of S. Amanda Edson, of Steuben, Crawford County, Pennsylvania, praying for the removal of their political disabilities and that they may be declared invested with full power to exercise their right of self-government at the ballot-box, all State constitutions to the contrary notwithstanding; which were referred to the Committee on Privileges and Elections.

Mr. TELLER presented a joint resolution of the Legislature of Colorado, in favor of an appropriation by Congress for the construction of a military wagon-road in the southwestern part of that State; which was referred to the Committee on Appropriations.

Mr. GARLAND presented the petition of G. W. Brown and others, citizens of Arkansas, praying for an amendment of the law making the Ouachita River in that State a navigable stream to Arkadelphia, so as to declare it a navigable stream so far only as Hill's Ferry, near Camden, in Ouachita County; which was referred to the Committee on Commerce.

Mr. KERNAN presented the petition of the American Geographical Society, praying that certain reports of surveys as to a canal connecting the Atlantic and Pacific Oceans may be printed; which was referred to the Committee on Printing.

Mr. WALLACE presented the petition of Alice Parshall and others, the petition of Marion E. Higby, the petition of Emily K. Barber, the petition of M. E. Ward, the petition of Rhoda M. Sterling, the petition of Caroline Castle, and the petition of Mary A. Higby, citizens of Steuben, Crawford County, Pennsylvania; the petition of Emily Bement and the petition of Emily Winton, citizens of Rome, Crawford County, Pennsylvania; the petition of Clara Sanders and the petition of Matilda Post, citizens of Athens, Crawford County, Pennsylvania, praying for the removal of their political disabilities and that they may be declared invested with full power to exercise their right to self-government at the ballot-box; which were referred to the Committee on Privileges and Elections.

Mr. MITCHELL. I present the petition of James P. Russell and several hundred others, citizens of the State of Oregon, praying for an appropriation for the improvement of Port Orford, in that State, for the better security of the commerce of that portion of the Pacific coast; and they set forth their reasons at length. I move the reference of the petition to the Committee on Commerce.

The motion was agreed to.

Mr. MITCHELL. I also present a memorial signed by 320 citizens of Oregon, resident in and near the Umatilla reservation in that State, in which they represent as follows:

1. That the Umatilla Indian reservation is situated in our midst and is surrounded by a densely populated region of country on all sides.
2. That we are informed and believe that there are not to exceed three hundred Indians all told who make said reservation their home and who are located thereon.
3. That said Indians, or many of them, were engaged in hostilities against the whites last summer, some of whom have already been convicted of murder and have been executed, and that there are many others now on said reservation equally guilty with those who have been convicted.
4. That the experience of last summer's troubles with said Indians and the strife that sprung up in consequence thereof between them and the whites, resulting in the killing of several Indians found off the reservation, has clearly demonstrated the fact that the said Indians and whites cannot longer live together in peace, and that those who had their friends and relatives murdered by said Indians last summer and their property destroyed will not meekly submit to a repetition of such scenes, but that said Indians when found away from said reserve will be killed by the injured whites, and that in consequence thereof another Indian war will be precipitated and our country will again be terrorized, our citizens murdered, robbed, and despoiled, and driven from the country.
5. That there is now existing between said Indians and the whites in this country an irrepressible conflict, which will be kept up and continued until one or the other quits the country.
6. That there are in the country and around said reserve bad white men as well as bad Indians, and that the two are constantly coming in contact with each other; that said class of white men furnish said Indians with intoxicating liquors, thus keeping up a constant uneasiness on the part of the law-abiding whites; that said Indians are a standing menace to the whites, partaking of all the vices of the worst class of the said whites and of none of the virtues.

Wherefore your petitioners pray that said Indians be removed from said reservation; that the lands on said reserve be opened for settlement and sold to actual settlers, and the proceeds of such sales of said land be set apart as a fund for the support and education of said Indians; and in duty bound your petitioners will ever pray.

Mr. President, I ask that this memorial be referred to the Committee on Indian Affairs. I can only say that I am tired trying to get some action from that committee in reference to this matter. Why it is that the subject is treated with such apparent indifference I am at a loss, I must confess, to understand. I am sure if the honorable chairman of the Committee on Indian Affairs and the members of that committee understood this subject as it really is, they certainly would devote at least a little time to it, and either say at once to the people of Oregon "your application is wrong and should be rejected" and report on it to the Senate, or say that it is right and should receive favorable action. I do not wish to complain of any committee, but I certainly feel that I am justified in saying this much.

Mr. ALLISON. I think that I ought to reply to the mild imputation of the Senator from Oregon. This Umatilla matter has been considered very often by the Committee on Indian Affairs, and once or twice at great length. The difficulty is that the Committee on Indian Affairs do not quite agree with the Senator from Oregon as to what ought to be done. These Umatilla Indians occupy a very valuable reservation in the State of Oregon. They think they have a right to it, and they do not want to leave it; but the citizens of the State of Oregon desire to have them leave it, and we have been unable thus far to agree upon any system or provision which will satisfy at once the Indians and the people of Oregon.

Mr. MITCHELL. Will the Senator allow me one word right there? The chairman of the Committee on Indian Affairs says that these Indians occupy a valuable reservation; that they do not want to leave it; that the whites want the Indians to leave it; and that the Committee on Indian Affairs have been unable so far to devise any proper legislation on the subject. Now, that, I beg to state, is not a fair statement of the case. What is the legislation asked? It is simply that the Secretary of the Interior or the President of the United States, if you please, be authorized to negotiate with these Indians and find out whether they are willing to go. Nobody, either here or elsewhere, has ever suggested the idea that these Indians should be removed from this reservation without their consent. I have never suggested such a thing; I have never introduced a bill that squinted in that direction; but I have introduced bills time and time again asking the Committee on Indian Affairs and Congress to authorize the Interior Department to negotiate with these Indians with a view to their removal with their consent. Now the existing treaty has not expired. It expires next month, or in April at least; and it is proper that something should be done looking to the welfare of these Indians. I notice that the Committee on Indian Affairs can find time to report upon divers other matters, on Osage matters and various other questions which come up here; and I do not feel that we are treated quite right on our coast when it is represented by the chairman here that the whites in Oregon are anxious to remove these Indians against their consent, when no such proposition has ever been submitted.

I submit in all candor to the honorable chairman and to every member of the Committee on Indian Affairs that all we have ever asked in regard to this matter is that the proper authorities be authorized to see whether the Indians are willing to go on to another reservation where this conflict between the whites and the Indians may be avoided.

The VICE-PRESIDENT. The presentation of petitions and memorials is still in order.

Mr. DAWES. I present the memorial of George W. Warren and others, engaged in the manufacture of boots and shoes in Boston, Massachusetts, remonstrating against the passage of the bill extending the McKay and Mathies patent for an improvement in the sewing-machine granted in 1862. As that bill is before the Senate, I move that this memorial lie upon the table.

The motion was agreed to.

Mr. INGALLS presented the petition of Samuel H. Webber and others, citizens of Kansas, praying for the establishment of a post-route from Logan to Wakeeney, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. ANTHONY. I present the petition of John D. Defrees, the Public Printer, stating that the safe at the Government Printing Office was robbed on the 2d of January last of \$9,813, taken through no fault of the officer in charge. He states that every exertion has been made to discover the thief, but in vain. He prays that he may be relieved from all responsibility for the loss. I move the reference of this petition to the Committee on Printing.

The motion was agreed to.

Mr. FERRY presented a joint resolution of the Legislature of Michigan, in favor of an appropriation by Congress for the improvement of Lake Saint Clair, at the mouth of Clinton River, in that State; which was referred to the Committee on Commerce.

He also presented the petition of Catherine A. F. Stebbins, of Detroit, Michigan, praying for the removal of her political disabilities; which was referred to the Committee on Privileges and Elections.

Mr. WHYTE presented the memorial of Henry Freitag and others, citizens of Maryland, interested in the manufacture of tobacco, remonstrating against the passage of the bill (H. R. No. 5430) to secure more efficient collection of the revenue from cigars; which was ordered to lie on the table.

Mr. CONKLING. I present a petition signed by citizens of the State of New York, setting forth the advantages which they think

legal-tender notes, as distinguished from other currency, possess, and praying such legislation as will supersede national-bank currency and substitute for it legal-tender notes. I move the reference of this petition to the Committee on Finance.

The motion was agreed to.

Mr. CONKLING. I present also a memorial of manufacturers of shoes in the State of New York, remonstrating against the extension of letters-patent of McKay and Mathies sewing-machine so-called. I move that this memorial lie on the table.

The motion was agreed to.

Mr. CONKLING presented the petition of David G. Cole and others, citizens of New York, praying for the passage of the bill (H. R. No. 3547) to regulate interstate commerce and to prohibit unjust discriminations by common carriers; which was referred to the Committee on Commerce.

Mr. CONKLING. I present also the proceedings and resolutions of the cigar-makers of the city of New York, touching the revenue bill which recently passed the Senate, and favoring the change there made respecting the tobacco tax. I move that they lie upon the table.

The motion was agreed to.

Mr. GORDON. I desire to present a very imposing memorial, a memorial signed by W. W. Corcoran and 1,500 others, of the District of Columbia, remonstrating against the establishment of a post-office at the corner of Twelfth street and Pennsylvania avenue, and praying for its establishment at another point. I move that the memorial be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. SAUNDERS. I present a joint resolution of the Legislature of Nebraska, recommending the transfer of the Indian Bureau to the War Department. My colleague, I understand, presented another copy of this during the morning and had it read; so that there is no necessity for reading this, but I wish it to go on record as I present it that there is a bill on the Calendar on this subject. Let this resolution go with the papers accompanying that bill.

The VICE-PRESIDENT. That course will be taken.

REPORTS OF COMMITTEES.

Mr. DORSEY, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 4810) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes, reported it with an amendment.

Mr. THURMAN, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 6170) for the better organization of the district court of the United States within the State of Louisiana, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. HARRIS, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 6008) for the relief of the heirs of Edward B. Clark, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 4579) concerning street railroads in the District of Columbia, reported it with amendments.

Mr. HAMLIN, from the Committee on Foreign Relations, to whom were referred the following bills and joint resolution, asked to be discharged from their further consideration; which was agreed to:

A bill (S. No. 1693) to grant to the American Ocean Cable and Telegraph Land Wire Association of Philadelphia the right of way and privilege to lay, land, and operate submarine-telegraph cables on the Atlantic and Pacific coasts of the United States, and establish telegraphic communication between the United States, Europe, and Asia;

A bill (S. No. 1480) to provide a commission for the adjudication of damages to the Norwegian bark Atlantic by collision with the United States steam sloop of war Vandalia, and for payment of any award made by said commission; and

A joint resolution (S. R. No. 24) authorizing the President of the United States to appoint a commissioner to the King of Corea to arrange a treaty of amity and commerce between the United States and the King of Corea, and to appropriate the necessary expenses in making such treaty.

Mr. HAMLIN also, from the same committee, to whom were referred the following petition, communication from the President of the United States, and memorial, asked to be discharged from their further consideration; which was agreed to:

A petition of John C. Landreau for himself and on behalf of his brother, Jean Theophile Landreau, praying the interposition of the United States Government to enable him to secure a just settlement of his claim against the government of Peru for the seizure of large deposits of guano alleged to have been discovered by the said Jean Theophile Landreau;

Message from the President of the United States, communicating, in answer to a Senate resolution of June 3, 1873, a copy of correspondence between the governments of the United States and Great Britain in regard to inviting other maritime powers to accede to the three rules of neutrality laid down in Article VI of the treaty of May 8, 1871; and

A memorial of Henry C. Wayne, of Savannah, Georgia, in relation to the construction of a ship-canal to connect the Atlantic and Pacific Oceans through the Isthmus of Tehuantepec.

Mr. ALLISON. The Committee on Appropriations, to whom was referred the bill (H. R. No. 6436) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1879, and for prior years, and for those heretofore treated as permanent, and for other purposes, have instructed me to report it with amendments. This bill is reported in print, and I give notice that the Committee on Appropriations will ask the Senate to consider it as soon as the Army appropriation bill shall have been concluded.

Mr. CONKLING, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 3895) to amend section 349 of the Revised Statutes and for other purposes, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 846) to authorize the payment to claimants of interest received by the United States on the woolen duty fund, reported it without amendment.

Mr. WINDOM, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 6462) making appropriations for the payment of the arrears of pensions granted by act of Congress approved January 25, 1879, and for other purposes, reported it with amendments.

Mr. DAVIS, of Illinois, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 1875) for the relief of E. A. Williams, reported it without amendment.

GOVERNMENTAL HISTORY.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred a resolution to print—copies of a work entitled *The Governmental History of the United States of America*, from the earliest settlement to the adoption of the Federal Constitution, by Henry Sherman, esq., counselor at law, &c., to ask to be discharged from its further consideration. The committee have examined this book with much pleasure, and find it a very valuable compendium and analysis of the history of the Government during the period covered by it, and fully justifies the commendation by which the memorial is supported. The committee take pleasure in commending it to their fellow-citizens, but it is not a work ordered by Congress, and does not come under that class of books which, in the opinion of the committee, it is justifiable for Congress to print for gratuitous distribution.

The VICE-PRESIDENT. The committee will be discharged from the further consideration of the resolution.

TAX-LIEN CERTIFICATES.

Mr. ROLLINS. The Committee on the District of Columbia, having had under consideration the amendments of the House of Representatives to the bill (S. No. 1099) to provide for the settlement of tax-lien certificates erroneously issued by the late authorities of the District of Columbia, instruct me to recommend that the Senate concur in the amendments, and that the bill as amended be passed. As the bill is very short, containing only twelve lines, and as the amendments are very simple and not objectionable in any respect, I trust that they will be concurred in at the present time.

The amendments of the House of Representatives were read, being, in line 9 of the bill, to strike out the words "special improvement taxes, and;" in line 10, to strike out the words "all other;" and in the same line, after the words "seventy-seven," to insert the words "except special-improvement taxes;" so as to make the bill read:

That in order to settle and pay to the holders of certain tax-lien certificates purporting to have been issued pursuant to an act of the Legislative Assembly of the District of Columbia, approved June 25, 1873, which the commissioners of the District of Columbia may determine to have been erroneously issued by the late authorities of the said District against property exempt from taxation, or property upon which the taxes purporting to be represented by said certificates had been paid, the commissioners of the District be, and they are hereby, authorized to receive the same in satisfaction of any arrearages of taxes prior to July 1, 1877, except special improvement taxes; and immediately upon the redemption of such erroneously issued certificates the same shall be canceled, and a proper record of such payment and cancellation be made.

Mr. McCREERY. I think the bill had better lie over.

The VICE-PRESIDENT. The bill is up as a matter of right, for the Senate to dispose of the amendments of the House of Representatives. One objection does not take the bill over. Will the Senate concur in the amendments of the House of Representatives?

The amendments were concurred in.

WASHINGTON PENNY-LUNCH HOUSE.

Mr. INGALLS. I am directed by the Committee on the District of Columbia, to whom was referred the joint resolution (H. R. No. 232) making an appropriation for the benefit of the penny-lunch house of Washington, District of Columbia, to report it favorably, and, if the Senate will permit, to ask the present consideration of the joint resolution.

The Senate, by unanimous consent, proceeded to consider the joint resolution. It appropriates \$1,500 for the benefit of the penny-lunch house, in the city of Washington, to be paid by the Secretary of the Treasury to the commissioners of the District of Columbia, to be by them paid over to Mrs. Julia A. Roberts, of Washington, in sums of not exceeding \$100 in any one month, to be expended by her for the maintenance of the lunch-house.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILL INTRODUCED.

Mr. SHIELDS asked, and by unanimous consent obtained, leave to

introduce a bill (S. No. 1853) to incorporate the International Commercial Company; which was read twice by its title, and referred to the Committee on Commerce.

WITHDRAWAL OF PAPERS.

On motion of Mr. HILL, it was

Ordered, That Samuel J. Gustin have leave to withdraw from the files of the Senate the papers furnished by him in support of the bill for the relief of said Samuel J. Gustin.

ADDITIONAL COMMITTEE CLERK.

Mr. DAVIS, of West Virginia, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Treasury Accounts, Books, &c., be authorized to employ an additional clerk for thirty days, to be paid the usual per diem of \$6 per day, and to be paid out of the contingent fund of the Senate.

CAPE COD HARBOR.

Mr. DAWES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be, and hereby is, directed to inquire and report what effect has been produced by the dike across the East Harbor Inlet, at Provincetown, Massachusetts, upon the deposit of sand in Cape Cod Harbor, at the mouth of said inlet.

FREEDMAN'S SAVINGS AND TRUST COMPANY.

Mr. BAYARD. I ask the Senate to proceed to the consideration of the bill (S. No. 1830) amending the charter of the Freedman's Savings and Trust Company, and for other purposes. It is a matter about which there will be no dispute, I think.

By unanimous consent, the Senate as in Committee of the Whole, proceeded to consider the bill.

Mr. BAYARD. In section 2, line 2, after the word "appoint," I move to strike out the words "the Comptroller of the Treasury" before "a commissioner;" so as to make the section read:

Sec. 2. That the Secretary of the Treasury is hereby authorized and directed to appoint a commissioner, who shall execute a bond to the United States, with good sureties, in the penal sum of \$20,000, conditioned for the faithful discharge of his duties as commissioner aforesaid, and take an oath faithfully to perform his duties; which bond shall be executed in the presence of said Secretary and approved by him, and by him safely kept; and when said bond shall have been executed and oath taken, then said commissioner shall be invested with the possession and legal title to all the property of said company for the purposes of this act and the said act of June 20, 1874, and shall have all the rights, prerogatives, and privileges, and perform all the duties, that were conferred and enjoined upon the three commissioners mentioned in said act of June 20, 1874.

The amendment was agreed to.

Mr. BAYARD. I also move to strike out sections 11 and 12.

The sections were read, as follows:

Sec. 11. That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase for the use of the United States all those lots and parcels of ground, with the buildings and improvements thereon, situated in the city of Washington, District of Columbia, on Pennsylvania avenue, between Fifteenth and Fifteenth-and-a-half streets, and belonging to the Freedman's Savings and Trust Company, at a sum not exceeding two hundred and fifty thousand dollars, to be paid, and by him placed to the credit of the commissioners of the said Freedman's Savings and Trust Company on the books of the Treasurer of the United States, for distribution among its creditors, out of any money in the Treasury not otherwise appropriated, upon proof of a perfect title and the execution to the United States of a deed good and sufficient in law, and in form approved by the Attorney-General; and said sum, or so much thereof as may be necessary, is hereby appropriated for that purpose.

Sec. 12. The further sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of fitting up the rooms upon the first floor of the fire-proof building upon said premises known as the Freedman's Bank Building, under the direction of the Supervising Architect of the Capitol, for the use of the Court of Claims, and the removal of it and its records and papers thereto.

The amendment was agreed to.

Mr. BECK. I have not examined the bill very carefully, but I see there is a provision allowing the property to be sold at private sale.

Mr. BAYARD. That is necessary to be done. I will only say that this bill is similar to the one carefully prepared by Mr. Scott, of Pennsylvania, a few years ago, and it has met the approval of both Houses. It passed the Senate unanimously and was reported unanimously by the committee of the House, but it failed there because of lack of time to consider it.

Mr. COCKRELL. In section 2 the words "the Comptroller of the Treasury" have been stricken out, and now to make it correspond the words "as Comptroller," in section 5, line 5, should be stricken out.

Mr. BAYARD. I will amend further by striking out in lines 4 and 5 of section 5 the words "in addition to his present salary as Comptroller," and inserting in line 6 in lieu of "one thousand dollars," the words "three thousand dollars;" so as to make the section read:

That said commissioner shall, by the tenth day of each annual session of Congress, make a written report to Congress of his proceedings up to the first day of said session; and, for his services as commissioner aforesaid, he shall receive an annual salary of three thousand dollars, to be paid out of the funds of said institution.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MIGRATION OF COLORED PERSONS.

Mr. WINDOM. I move that the Senate proceed to the consideration of the resolution offered by myself January 16, relating to the migration of colored persons.

The Senate proceeded to consider the following resolution:

Resolved, That with a view to the peaceful adjustment of all questions relating to suffrage, to the effective enforcement of constitutional and natural rights, and to the promotion of the best interests of the whole country, by the elimination of sectionalism from politics, a committee of seven Senators be appointed by the Chair and charged with the duty of inquiring as to the expediency and practicability of encouraging and promoting, by all just and proper methods, the partial migration of colored persons from those States and congressional districts where they are not allowed to freely and peacefully exercise and enjoy their constitutional rights as American citizens into such States as may desire to receive them, and will protect them in said rights, or into such Territory or Territories of the United States as may be provided for their use and occupation; and if said committee shall deem such migration expedient and practicable, that they report, by bill or otherwise, what in their judgment is the most effective method of accomplishing that object, and that said committee have leave to sit during the recess.

Mr. SAULSBURY. Let the resolution go over.

The VICE-PRESIDENT. Will the Senate agree to the resolution?

Mr. HARRIS. I understand the Senator from Delaware to object.

Mr. WINDOM. A single objection does not carry it over.

The VICE-PRESIDENT. An objection does not carry it over. Will the Senate agree to the resolution?

Mr. SAULSBURY. I hope the resolution will not pass. I do not believe there is any necessity for creating a commission to sit during the recess for any such purpose. We are in the habit of creating committees to sit during the recess, incurring expense, for a great many things for which there is no absolute necessity; and I do not see that an inquiry of this kind is necessary. It will incur expense; it will end in no good; and I therefore shall vote against it. I hope the Senate will not concur in the resolution.

The VICE-PRESIDENT put the question on agreeing to the resolution, and declared that the yeas appeared to prevail.

Mr. WINDOM. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DAVIS, of West Virginia. A large number of us did not hear the resolution, and wish to have it reported again.

The VICE-PRESIDENT. It will be again reported.

The Secretary read the resolution.

Mr. SAULSBURY. I hope that the resolution will not pass. It contains an implied accusation against certain States and certain congressional districts in this country that colored people are not allowed to vote. If there is any such condition of affairs existing in the country it is the duty of the Senator from Minnesota to make it known, but not to assume that to be true of which there is no proof.

Mr. WINDOM. If the Senator will allow me, to make the resolution entirely agreeable to him, I will strike out, with the consent of the Senate, the words:

From those States and congressional districts where they are not allowed to freely and peacefully exercise and enjoy their constitutional rights as American citizens.

So as to leave out the offensive words and make it entirely palatable to the Senator from Delaware.

Mr. KERNAN. I desire to make an inquiry. Will the Senator intimate the means he thinks Congress can use to aid in transporting the colored persons to whom his resolution refers?

Mr. WINDOM. I am sorry the Senator from New York did not listen to the speech of an hour and a half that I made the other day, in which I stated that very fully.

Mr. KERNAN. I do not think we can legislate to transfer them from one State to another otherwise than by making provision for the expense of their removal. If the resolution means that we are to appropriate money to do it, I do not think we ought to pass it.

The VICE-PRESIDENT. Is there objection to the modification of the resolution as stated by the Senator from Minnesota? The Chair hears none, and it is so modified.

Mr. HOAR. Let the resolution be reported as modified.

The VICE-PRESIDENT. The resolution will be reported as modified.

The Secretary read the resolution as modified, as follows:

Resolved, That with a view to the peaceful adjustment of all questions relating to suffrage, to the effective enforcement of constitutional and natural rights, and to the promotion of the best interests of the whole country, by the elimination of sectionalism from politics, a committee of seven Senators be appointed by the Chair, and charged with the duty of inquiring as to the expediency and practicability of encouraging and promoting by all just and proper methods the partial migration of colored persons into such States as may desire to receive them and will protect them in said rights, or into such Territory or Territories of the United States as may be provided for their use and occupation; and if said committee shall deem such migration expedient and practicable, that they report by bill or otherwise what, in their judgment, is the most effective method of accomplishing that object; and that said committee have leave to sit during the recess.

The VICE-PRESIDENT. The morning hour has expired.

Mr. WINDOM. I desire to give notice that I shall press this resolution to-morrow after the morning business.

Mr. BAYARD. Has the resolution been printed?

The VICE-PRESIDENT. It has been printed heretofore.

Mr. WINDOM. It has been printed already. Does the Senator from Delaware request that it be printed as amended this morning?

Mr. BAYARD. No; I merely want to see it in print.

The VICE-PRESIDENT. By the understanding of Saturday last the Senate now proceeds to the consideration of its unfinished business, being the Army appropriation bill.

Mr. WINDOM. I desire to give notice that I shall press this resolution in the morning hour to-morrow.

PROPOSED EVENING SESSION.

Mr. VOORHEES. I desire to submit a proposition to the Senate

which I hope will be accepted by general consent. The labor of this session is mainly on the Calendar, and a great deal of the labor of last session. The session is drawing rapidly to a close, and directly we shall adjourn, leaving undisposed of a great many cases on which a great deal of labor has been expended. I hope the Senate will agree to meet here this evening, say at half past seven, to take up and dispose of unobjected cases on the Calendar. I may say without impropriety that upon this point I have consulted with the senior Senator from Rhode Island, [Mr. ANTHONY,] and the proposition meets his concurrence. In that way we can dispose of a great deal of business that will not come back to plague us in the future.

The VICE-PRESIDENT. Is there objection to the proposition of the Senator from Indiana?

Mr. PADDOCK. A resolution of respect to the memory of the late Mr. Welch, formerly a member of the House from the State which I have the honor in part to represent, came on Saturday from the House to this body, and by general understanding it was laid over until to-day with a view of taking it up this afternoon.

Mr. VOORHEES. If that could be as well done to-morrow it would be better for a reason I will state. I need not say why it would not be proper perhaps for this body to be in session to-morrow night. I presume that every Senator knows of an occasion taking place at the Executive Mansion which perhaps will render it impossible for the Senate to convene here to-morrow evening. If after the close of the regular proceedings to-morrow the announcement of Mr. Welch's death could take place, followed by an adjournment, that would fit very well.

I wish to say in addition to what I have already said in support of the proposition I make that the Calendar is full of pension bills that will have to return to the House, some bills that have passed the House and have been amended in some particulars here, which will have to be returned, and some bills that originated here as Senate bills and that have to go to the House, and unless we meet to-night and dispose of that class of business hundreds and thousands of hearts will ache when we adjourn because we have not done this business. I sincerely hope that it may be agreeable to the Senator from Nebraska to postpone the services to which he alludes until to-morrow afternoon, which will be followed by an adjournment as a matter of course, and let us have to-night for the purpose I have indicated.

Mr. PADDOCK. I realize the importance of the order to which the Senator refers and which he suggests. In view of the fact that such an event is to transpire which he speaks of, which would make an early adjournment necessary to-morrow, I shall gladly accede to the proposition.

Mr. WINDOM. I cannot consent to the proposition of the Senator from Indiana at present for the reason that we hope to complete the Army appropriation bill at three o'clock, and the deficiency bill will be ready for action at that time. I wish the Senator would bring it up later in the day so that we may consider what we can do about it; say at four or five o'clock. I cannot consent to it now. I think we ought to take up the deficiency bill to-day.

Mr. VOORHEES. Of course I desire to accomplish my object—

Mr. WINDOM. I desire that it shall be accomplished too.

Mr. VOORHEES. If I can best accomplish it by acceding to the suggestion of the Senator from Minnesota, I will do so; and with the understanding that after the Army appropriation bill is disposed of I will renew this proposition, I withdraw it for the present.

Mr. WINDOM. We will consider it at that time.

Mr. BLAINE. I have no desire to interfere with any morning business or notices, but after that I must insist on going on with the Army bill.

Mr. CAMERON, of Wisconsin. I desire to give notice that as soon as the Army appropriation bill is disposed of I will move to take up the resolution reported by me from the Committee on Privileges and Elections on the 4th of this month, declaring Mr. Corbin entitled to a seat in this body as a Senator from South Carolina.

Mr. BLAINE. Does the Senator mean to-day?

Mr. CAMERON, of Wisconsin. To-day, or as soon as the Army appropriation bill is disposed of.

Mr. BLAINE. That bill will be disposed of between three and four o'clock.

Mr. WALLACE. Agreeably to the notice given on Saturday, I move to suspend all prior orders and take up House joint resolution No. 176, to provide for the enforcement of the eight-hour law.

Mr. ANTHONY. I think the Senator from Pennsylvania could not have been in the Senate when we went into executive session on Saturday. A unanimous agreement was then arrived at to take up the Army bill at twelve o'clock, and vote upon it without further debate at three o'clock.

Mr. WALLACE. I think I was not here.

Mr. BLAINE. That was the understanding. The honorable Senator was not in his seat, but it was unanimously agreed to.

Mr. WALLACE. I was not aware of it. I withdraw my motion.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the amendments of the Senate to the following bills:

A bill (H. R. No. 1008) relating to the Cumberland road in the State of Ohio, and to authorize the same to become a free road;

A bill (H. R. No. 1094) to remove the disabilities of Asa Wall, imposed by the third section of the fourteenth article of the amendments to the Constitution of the United States;

A bill (H. R. No. 1679) for the relief of Catharine and Sophia Germain;

A bill (H. R. No. 2423) to restrict the immigration of Chinese to the United States;

A bill (H. R. No. 3828) to amend section 23 of the act approved June 22, 1874, entitled "An act to amend the customs revenue laws and to repeal moieties;"

A bill (H. R. No. 3055) to promote a knowledge of steam engineering and iron-ship building among the students of scientific schools or colleges in the United States;

A bill (H. R. No. 6225) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 20, 1878; and

A bill (H. R. No. 5477) to authorize the issue of certificates of deposit in aid of the re-funding of the public debt.

The message also announced that the House had passed a concurrent resolution for the printing of 20,000 copies of the memorial addresses delivered in the Senate and House of Representatives upon the life and character of Alpheus S. Williams, late a Representative from the State of Michigan.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the Vice-President:

A bill (S. No. 36) to create an additional associate justice of the supreme court of the District of Columbia, and for the better administration of justice in said District;

A bill (S. No. 55) for the relief of John W. Douglass;

A bill (S. No. 290) for the relief of James D. Holman;

A bill (H. R. No. 521) for the relief of Thomas F. Alexander, of Illinois;

A bill (H. R. No. 556) for the relief of James A. Hile, of Lewis County, Missouri;

A bill (H. R. No. 3625) relating to soldiers while in the civil service of the United States;

A bill (H. R. No. 3828) to amend section 23 of the act approved June 22, 1874, entitled "An act to amend the customs revenue laws and to repeal moieties;"

A bill (H. R. No. 3855) for the relief of William A. Mann;

A bill (H. R. No. 4190) for the relief of William H. Baldwin;

A bill (H. R. No. 5824) extending the limits of the port of New York;

A joint resolution (S. R. No. 66) authorizing sale of public property in Cincinnati; and

A joint resolution (H. R. No. 105) authorizing the Secretary of the Treasury to pay certain officers of the internal-revenue service the amounts due them for their services as such officers previous to the time of executing their bonds and taking the oath of office as prescribed by law.

AMENDMENTS TO BILLS.

Mr. BECK submitted an amendment intended to be proposed by him to the bill (H. R. No. 6462) making appropriations for the payment of the arrears of pensions granted by act of Congress approved January 25, 1879, and for other purposes, by suspending the operation of all laws providing for a sinking-fund and applying the surplus revenue in the Treasury after paying current expenses to the payment of arrears of pensions; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. MORRILL, from the Committee on Public Buildings and Grounds, submitted an amendment intended to be proposed to the bill (H. R. No. 6471) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. INGALLS, Mr. MORGAN, Mr. MITCHELL, and Mr. BUTLER submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 5218) to establish post-routes in the several States herein named; which were referred to the Committee on Post-Offices and Post-Roads.

Mr. EUSTIS, Mr. CAMERON, of Pennsylvania, Mr. BAILEY, Mr. FERRY, and Mr. DAWES submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6463) making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. FERRY, Mr. WADLEIGH, and Mr. MITCHELL submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6436) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1879, and for prior years, and for those heretofore treated as permanent, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. HOAR and Mr. McDONALD submitted amendments intended to be proposed by them to the bill (H. R. No. 6240) making appropriations

for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. KERNAN, Mr. DORSEY, and Mr. KELLOGG submitted amendments intended to be proposed by them to the bill (H. R. No. 6471) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

ARMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 6145) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes.

The VICE-PRESIDENT. The pending question is on the amendment of the Senator from Wisconsin, [Mr. HOWE,] on page 4, line 81, after the word "lines," to insert:

And which shall file their written acceptance of the restrictions and obligations imposed on telegraph companies by title 65 of the Revised Statutes.

Mr. JONES, of Florida. Mr. President, I am not unmindful of the promise which I made to the Senate when I last occupied the floor on this question, when I assured it that I should be able to conclude all I desired to say, at most, in three-quarters of an hour. I cannot but regret that I was interrupted on Saturday evening, that I was not permitted to go on and conclude what I had to say then; but, however, that is past.

When I last had the floor, Mr. President, the question I was attempting to elucidate in connection with this subject was the power of Congress to deal with it. I said, and said very candidly, that there was a bill on the Calendar that embodied the principle of this clause of the bill, introduced by myself at the last session, and favorably reported, but which I am fearful we shall not be able to reach. Hence, the interest which I feel in this amendment is much greater than I should feel under ordinary circumstances, because this clause of the appropriation bill, with the amendment I have suggested, contains the principle of that bill.

I said also, Mr. President, that when I introduced that measure it was after a very full and, I may add, not inconsiderate view of the existing legislation upon this subject and the judicial decisions of the courts. It was not, I said, the first time that Congress was asked to exercise its powers over this subject, because, as I attempted to show, in 1866 an act of Congress was passed which gave to existing telegraph companies a national character, which, as I said, legislated them into the States of the Union far beyond the limits of the power that created them, so that at the present time 95 per cent. of the telegraph business of this country is carried on by a corporation which owes its existence to the laws of New York, but which, by virtue of the provisions of the act of 1866, is enabled to exercise its corporate powers in every State of the Union. I do not complain of this. I am speaking of it as a great public fact; I am speaking of it as an existing law; and the legislation which I propose, and which my amendment is meant to accomplish, is intended to some extent to modify and regulate this great power.

It was suggested the other evening that the act of 1866 did not have the effect that I stated; that it only gave the telegraph companies within the States the powers and privileges set forth in the act of 1866. That, I am free to say, at one time was my opinion; that I thought at one time was the law, but the highest judicial authority in this country have decided otherwise, and they have said that the meaning of Congress was that the privileges conferred by that act extended throughout the length and breadth of this Union without regard to State lines or territorial limits.

It is a familiar maxim of jurisprudence that the decision of the highest judicial authority construing an act of legislation shall have the same effect as if the words of the decision had been incorporated into the text of the law. In other words, to make myself as plain as possible, when the highest court in a State decides upon the meaning of the Legislature as expressed in a statute, whatever the court says the Legislature meant is in legal effect to be taken the same as though that language had been incorporated into the statute by the Legislature itself. That is a rule that no lawyer will deny.

The decision in 6 Otto giving a construction to the act of Congress of July 24, 1866, is to be taken as part of that act for all legal purposes. The court have said what Congress intended, and their judgment on that subject is conclusive. They have said that it was the intention of Congress by that act to regulate commerce between the States and to give to any existing telegraph company the right to transfer itself from one State into another, indeed into every State, and to carry on its business in defiance of local law. But for fear that I may do injustice to the high tribunal to whose judgment I have alluded, I will read its own language to the Senate. It says:

It is unnecessary to decide how far this might have been done—

That is, what was done by the State Legislature of Florida—

if Congress had not acted upon the same subject, for it has acted. The statute of July 24, 1866, in effect, amounts to a prohibition of all State monopolies in this particular. It substantially declares, in the interest of commerce and the convenient transmission of intelligence from place to place by the Government of the United States and its citizens, that the erection of telegraph lines shall, so far as State interference is concerned, be free to all who will submit to the conditions imposed by

Congress, and that corporations organized under the laws of one State for constructing and operating telegraph lines shall not be excluded by another from prosecuting their business within its jurisdiction, if they accept the terms proposed by the National Government for this national privilege. To this extent, certainly, the statute is a legitimate regulation of commercial intercourse among the States, and is appropriate legislation to carry into execution the powers of Congress over the postal service.

The very distinguished jurist who delivered the dissenting opinion in this case seems to have understood the extent to which this decision goes when in his dissenting judgment he employs this language:

The position advanced, that if a corporation be in any way engaged in commerce it can enter and do business in another State without the latter's consent, is novel and startling.

That may be true, but I am speaking now of the existing law. I am not here as an advocate for that opinion; I am not here to support its reasoning to the extent that it goes; but I am speaking of it as the existing law on this subject as announced by the highest judicial authority in this country, and I see no way to modify or to cut down this great power except in the manner indicated by my amendment. We cannot pass any act repealing a decision of the Supreme Court. It has its own high judicial functions to discharge; it has its own high constitutional powers to exercise; and it is as much beyond our reach as we are beyond its reach. But it is legitimate for it to pass upon the acts of Congress that we enact in relation to private or public interests, and it has the power to interpret them and expound them in a judicial way, and when thus expounded its opinion, coupled with the statute, so long as it lasts, is the supreme law of the land, anything in the laws or constitutions of the States to the contrary notwithstanding.

Now, sir, it being clearly established that under the existing legislation of Congress and the present decision of the Supreme Court a telegraph corporation existing by virtue of the laws of New York can transfer its power into the State of Missouri, or North Carolina, or Georgia, and set itself up there in defiance of local law, the question is whether you will leave that law as it is, or whether you will undertake to extend the great privilege to other corporations equally as much entitled to the recognition of the Government as the ones that now have it.

I heard something said the other day in regard to a Federal power being ingrafted on a State organization; but I would ask in all candor and sincerity whether there is anything more out of the way in the proposition now before the Senate to give to railroad corporations existing now under the laws of the States the authority to do a telegraph business, which power the Supreme Court has said belongs to the Federal Government, than in undertaking to legislate a foreign corporation chartered for that business into a State that does not recognize it and under whose authority it has no privileges or powers. If by force of existing legislation and judicial decision it is competent for a great telegraph corporation to transplant itself to the State of Virginia and set itself along a railroad there belonging to the people of that State and chartered by its Legislature, why is it not competent for the same power that conferred this high privilege to give to that same railroad company the right to erect, maintain, and operate a line of telegraph along its own road? That is the proposition.

Mr. HILL. I will ask my friend if he believes it is constitutional for Congress to do that thing? Is it constitutional for Congress to add to the franchises of a State corporation?

Mr. JONES, of Florida. I can answer the Senator in the language of the Supreme Court, which tells him that it is.

Mr. HILL. I have not asked what the decision of the Supreme Court is. Does the Senator believe that it is constitutional for Congress to do that? I have read the opinion of the majority of the Supreme Court; I have read the dissenting opinion on the subject of the act of 1866. I believe my friend argued very ably on the other side before that court.

Mr. JONES, of Florida. If the Senator watched my argument closely he would have found that there was no question of power opened up in it, but that it was a simple question in regard to the construction of the act of 1866, so far as the argument went. Something was said collaterally upon the question, but the direct point, as my brief will show, was that I contended that the act of 1866 was not intended by Congress to extend to railroads within the States.

Mr. HILL. That was the position of the Senator from Florida, and it was very clearly and strongly taken in the argument before the Supreme Court; and that position taken by the Senator was affirmed by two or three of the judges in the dissenting opinion.

Mr. JONES, of Florida. Two.

Mr. HILL. The Supreme Court, however, went further and held that the act of 1866 was not simply an act to give this privilege to State corporations over the public domain, but that it absolutely adds a franchise to a State corporation; it authorized that State corporation to go into every State, as I understand it, without the consent of the State.

Mr. JONES, of Florida. Yes.

Mr. HILL. I conceive that that is a very great power. It is, as I suggest, justly characterized by the dissenting opinion as novel and startling. My friend will pardon me a moment further. I have not given my attention to this subject until since Saturday, when I caught the point of the argument he was then making. Since then I have been investigating it. It seems to me to present one of the biggest

questions ever brought before Congress, and I myself do not see the end of it if we are to enter on this thing of allowing Congress to add to the franchises of a State corporation simply because that corporation is in some way engaged in commerce. The question I want to ask my friend, who has given his attention to this subject, who has had opportunities and advantages that I have not had, and who therefore, perhaps, is able to give an opinion on it, is whether he believes, decision of the Supreme Court or no decision, as a constitutional question on which we as legislators must act, that Congress has the power to add to the franchises of a purely State corporation?

Mr. JONES, of Florida. I do not understand that it is the purpose of the amendment to add to their franchises in the least. If the Senator will observe the argument closely he will find that a very different question is presented by this amendment of mine from what was presented by the bill passed in 1866.

I said a while ago that the question before the Supreme Court really was a question of the construction of the statute, and they decided that Congress meant much more than I contended it meant; that it meant to include every railroad in the Union as a post-road, and it said that this subject was within the regulating power of Congress, and that the corporation on the other side of that case had the right to go into every State in this Union under that law. I combated that construction. I contended that the act of 1866 never was intended to go any further than the Territories of the Union, or beyond roads in which the Government had a proprietary interest. But there is a point at which litigation must end. This in reality was in one sense a contest between the rights set up for the State of Florida and the rights claimed on the part of the National Government. The legislation which I stood upon was the legislation of a State, and I insisted that it was within the power of a State to enact it, notwithstanding the act of Congress. The Supreme Court decided otherwise; and when it arrived at that conclusion in a judicial controversy wherein its full power was invoked, the question was, after it decided it, what was to be done? Will you go on and allow the great telegraph corporations of this country to stand by this law, and not attempt any further legislation in accordance with the views announced by the court? It was in reality a contest between the State government and the Federal Government, in which the decision of the highest court of the United States was against the State.

Mr. MITCHELL. May I ask the Senator a question?

Mr. JONES, of Florida. Certainly.

Mr. MITCHELL. I desire to inquire of the Senator if I understand the effect of his amendment on Saturday. Suppose it is adopted, then in view of the decision of the Supreme Court—

Mr. JONES, of Florida. The Senator ought to remember that my time is limited.

Mr. MITCHELL. I will take only a moment. In view of the decision of the Supreme Court in the Florida case to which he has called attention, would a railroad situated solely within a State not connected with a road in any other State have the right to do a telegraphic business?

Mr. JONES, of Florida. Please state the question again.

Mr. MITCHELL. Would the amendment of the Senator from Florida, in view of the decision of the Supreme Court of the United States in the Florida case, authorize a railroad company doing business exclusively within a State, and having no connection with any railroad in any other State, have a right to do a telegraph business?

Mr. JONES, of Florida. That is a very difficult question to answer. I am not here as a judicial tribunal to answer questions of that kind.

Mr. MITCHELL. The Senator will allow me. I—

Mr. JONES, of Florida. It is rather an abstract proposition. I do not think that is a proper kind of question to consider in debate here now.

Mr. MITCHELL. It is very proper and very pertinent I think; it is one I feel a deep interest in from the fact that in my State we have certain railroads that are not connected with roads in any other State, and it is a matter of great importance to the people I represent here whether this amendment if adopted would authorize these roads to do a telegraph business, and thereby come in competition with the Western Union Telegraph Company.

Mr. JONES, of Florida. If there is any doubt on that point, an amendment can cure it, and I should very glad if the Senator would present one.

Mr. MITCHELL. I wanted to know the opinion of the Senator who offered the amendment, what is the effect of his amendment in relation to that matter?

The PRESIDING OFFICER, (Mr. WHYTE in the chair.) Does the Senator from Florida yield?

Mr. JONES, of Florida. Not any longer.

In regard to the power of the General Government on this subject, I have a few words to say. I have had occasion to look a little closely into the right, and it presents to my mind a wonderful field of inquiry. It is a remarkable fact that in 1846, under a good old democratic administration, we find as distinguished a man as Hon. Cave Johnson, Postmaster-General under Mr. Polk, advocating the exercise of this power; and why was that? There were no large interests at that time interested to keep it down. It was not disputed in Mr. Polk's day that the Government had the right to control this whole subject, and to appropriate to itself the entire business of telegraphy; and the only question that ever was mooted in connection with it

was in regard to its policy. The power was conceded on every hand. What did he say? I have only time to read a few extracts, and I regret very much that I have been cut down in time on this great subject. Mr. Postmaster-General Cave Johnson says:

The electro-magnetic telegraph invented by Professor Morse, and put in operation between the cities of Washington and Baltimore, under appropriations made by Congress, was placed under the superintendence of the Postmaster-General by a clause in one of the appropriation acts of the 3d March, 1846.

So it seems that they were at the business of general legislation in appropriation bills as early as 1846.

It had been in use the previous year, under the direction of the Secretary of the Treasury, but had been conducted more with reference to the testing of its capabilities, and such experiments as tended to perfect and improve its operations. Having been transferred to the Post-Office Department, I at once adopted regulations to bring it into constant service as a means of transmitting intelligence accessible to all, and prescribed the rates of postage. The copy of the order which accompanies this report, marked No. 11, will show the regulations and the rates of postage adopted. One-half the rates of postage suggested by Professor Morse was adopted by me, under the hope that it would greatly increase its revenues. It went into operation on the 1st of April, having expended \$680.15 before the charge of postage commenced. From the 1st of April to the 1st of October, the expenditures amounted to \$3,244.99, making the whole expenditure \$3,925.14, while the revenues for the six months amounted to the sum of \$413.44.

In estimating the expenditures of this line, those of Professor Morse, perhaps, ought not to be added. It was fixed by the regulations of the Treasury, and continued in estimates upon which the last appropriation was founded; and his time has been devoted to the general interests and improvements of the telegraph, and a portion of it spent in Europe, where, in his judgment, it could be more successfully done than here.

I deem it my duty to bring to your notice the fact that the subject of telegraphic communications in their fullest extent, as made available by means of this extraordinary invention, is forcing itself upon the attention of the public. The proprietors of the patent, securing the exclusive use of the telegraph, have, since the last Congress, taken the most active measures to establish lines of communication between the principal cities of the Union. Their success will introduce a means of communicating intelligence amply sufficient for a great variety of purposes, and greatly superior in dispatch to those of the public mails, and must secure to itself much of the business that has heretofore been transacted through them, and to that extent diminish the revenues of the Department.

It becomes, then, a question of great importance how far the Government will allow individuals to divide with it the business of transmitting intelligence—

This is democratic authority of the highest kind—

an important duty confided to it by the Constitution—necessarily and properly exclusive. Or will it purchase the telegraph and conduct its operations for the benefit of the public? Experience teaches that if individual enterprise is allowed to perform such portions of the business of the Government as it may find for its advantage, the Government will soon be left to perform unprofitable portions of it only, and must be driven to abandon it entirely or carry it on at a heavy tax upon the public Treasury.

In the hands of individuals or associations the telegraph may become the most potent instrument the world ever knew to effect sudden and large speculations; to rob the many of their just advantages and concentrate them upon the few. If permitted by the Government to be thus held, the public can have no security that it will not be wielded for their injury rather than their benefit.

The operation of the telegraph between this city and Baltimore has not satisfied me that under any rate of postages that can be adopted its revenues can be made to equal its expenditures.

Its importance to the public does not consist in any probable income that can ever be derived from it, but as an agent vastly superior to any other ever devised by the genius of man for the diffusion of intelligence, which may be accomplished with almost the rapidity of light to any part of the Republic. Its value in all commercial transactions, to individuals having the control of it, or to the Government in time of war, could not be estimated. The use of an instrument so powerful for good or for evil cannot with safety to the people be left in the hands of private individuals uncontrolled by law.

That is the opinion of a man who stood high, I believe, in legal and political circles in his day; the Post-Office minister of James K. Polk announced to Congress that in his judgment it would not be safe to leave this great power in the hands of corporations or individuals uncontrolled by law.

In this connection I will present an opinion on the same subject from Hon. Reverdy Johnson, which is an exhaustive discussion of it:

BALTIMORE, April 6, 1874.

SIR: The several questions upon which you have desired my opinion, I have considered with the care demanded by their importance.

The questions are these:

First. Is the act of the 24th July, 1866, entitled "An act to aid in the construction of telegraph lines, and to secure to the Government the use of the same for postal, military, and other purposes," constitutional? And are the subsequent acts of 10th June, 1872, and 3d March, 1873, also constitutional?

Second. The Western Union and other telegraph companies having accepted the terms of the act of 24th July, 1866, what are the rights of the United States and the obligations of the companies by virtue of the same?

I proceed to consider these questions in their order.

The authority of Congress to pass the acts in question is under the provision in the eighth section of the first article of the Constitution of the United States, which gives to that body power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

These powers, like all others vested in Congress, unless they are expressly restricted by some other provision in the Constitution, or by their very nature, are unlimited in regard to the subject with which they deal. And it is equally true that they are intended to continue as long as the Government exists. This commercial clause was designed to avert the mischief resulting from conflicting commercial regulations by the several States. It is, we know, historically true that such regulations, more than any other one cause, led to the adoption of the Constitution. Indeed, the peace and prosperity of the States demanded that legislation upon the subject should be made impossible. The end for which the power was vested in Congress, it was evident, could not be accomplished by the States. Their jurisdiction extended only over their respective limits. No regulation made by them separately could exceed those limits. Commerce, therefore, with foreign nations and among the several States could only be regulated by a power possessing general jurisdiction. The theory of the Constitution—and all the powers with which Congress is clothed are in accordance with that theory—is that every power which could not be exercised by the States separately should be vested in Congress. The object of the convention was to establish a government for a great nation, and was, of course, to repose in it every authority necessary to attain that result, and to se-

cure union and harmony at home as well as peace abroad. In relation to the powers so conferred the Supreme Court has, over and over again, declared that they are to be construed as if there were no State governments. The constituency of the General Government are the people of the whole country; the constituency of the State governments are the people of the States, respectively. In the language of Chief-Justice Marshall, in the case of *McCulloch vs. Maryland*, 4 Wheaton, 406, "If any proposition could command the universal assent of mankind, we might expect it would be this: that the Government of the Union, though limited in its powers, is supreme within its sphere of action. This would seem to result necessarily from its nature. It is the government of all; its powers are delegated by all; it represents all, and acts for all." Every power incidental to those expressly granted is as much granted as the expressly granted power. And every power not limited is intended to exist during the entire continuance of the Government. The design of the framers of the Constitution was that it should be for all time, unless it should be constitutionally modified. Nor, in the exercise of the incidental powers which Congress possesses, are they limited to the use of the means known to exist at the date of the Constitution. Whatever means, therefore, may at any time, through experience, or by the discoveries of science, or in any other way, be found out, may be resorted to. To apply these remarks to the subject before me. The matters to be regulated are, first, foreign commerce; second, commerce among the States; and, third, commerce among the Indian tribes. Whatever powers are incidental to the regulation of the first, are equally incidental to the regulation of the second and third. This seems to me to be obvious. The term is found in the same section and in the same clause of the Constitution. Whatever, therefore, is commerce among the States may be regulated by Congress, as well as whatever is commerce with foreign nations. What, then, is commerce, as the term is here used? Is it traffic alone, or is it not also intercourse, and the means by which traffic and intercourse may be carried on? If any doubt existed upon such a point it was removed by the decision of the Supreme Court of the United States in the case of *Gibbons vs. Ogden*, 9 Wheaton, 1. In that case the court said that "Commerce undoubtedly is traffic, but it is something more—it is intercourse;" and also said, "All America understands, and has uniformly understood, the word commerce to comprehend navigation. It was so understood, and must have been so understood, when the Constitution was framed." Whether the power be exclusively vested in the United States, or remains for any purpose in the States, is a proposition which I need not examine. It is, however, I think, clear from the opinion from which I have quoted that the judges who decided that case thought that the power was exclusive. Subsequent decisions of the same tribunal, or rather the opinions of some of the judges, leave this point in doubt. But there has been a uniform concurrence of view upon this point—that where, under the authority of the commercial clause, Congress has regulated to any extent commerce with foreign nations or among the several States, such regulation displaces all existing similar or inconsistent State regulations, and prohibits their adoption as long as the congressional legislation remains.

Whatever, therefore, is a regulation by Congress, and tends to accomplish the end for which the power was given, must be constitutional. No authority claimed under a State in conflict with it has any validity. Nothing that a State can do, by legislation or otherwise, can in the slightest degree limit the power. In the case already quoted, as well as in the case of *McCulloch vs. Maryland*, (4 Wheaton,) it was held that the question, what means Congress can resort to to accomplish the purpose of any granted power is a matter entirely within its discretion. The language of the court in the latter case (p. 421) is: "Let the end be legitimate; let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited but consistent with the letter and spirit of the Constitution, are constitutional." This discretion belonging to Congress, the manner of exercising it is for them to decide. The object of the act of 24th July, 1866, as declared in its title, is to secure to the Government the use of telegraph lines "for postal, military, and other purposes." The power to establish post-offices and post-roads, and to declare war, to raise armies, and provide navies was expressly vested in Congress. Whatever, therefore, could aid in any way the work of the Army or the Navy or the postal service is within the discretionary power of Congress. That the telegraph will assist in accomplishing these results is clear. In time of war or of threatened war rapid communication between the Government and the Army may be all-important. And so in relation to the mails and the Navy. It may be vital that a fleet or a ship should sail on a certain day; that any impediments, by violence or otherwise, to the transmission of the mails may be removed at the earliest period, and this can be best accomplished through the means of information furnished by the telegraph. The operation, too, of the Signal Service, the beneficial use of which is now so universally acknowledged, cannot be accomplished by any other mode than by telegraph. Its beneficial use depends upon the receipt in Washington of information of the state of the weather in every part of the country. This information enables the bureau to predict from day to day, with reasonable precision, the state of the weather for the next twenty-four hours. This scientific prediction may be most important to the commercial as well as to the naval marine of the country. When may a fleet or ship sail with a reasonable hope that they will encounter no extraordinary perils from the winds and waves? And when may they expect such perils? This knowledge can only be distributed throughout our ports by telegraph operated by the bureau or controlled by it, so far as its dispatches are concerned. That the assistance of the telegraph is indispensable to these objects is obvious, and it is equally obvious that the mode in which this assistance is to be rendered should be placed in the hands and under the exclusive control of the Government. This is the purpose of the act of 1866 and the subsequent acts. Their constitutionality, therefore, in my judgment, is free of all reasonable doubt.

The next question under this head is, Can the United States themselves lay a telegraph line along the several railroads for their own use? To give them the power to communicate by telegraph and deny them the right to establish a telegraph line seems to me to be simply absurd. That the railroads in the country have been constructed for the most part under the authority of State charters in no manner affects the question. If the United States would have had the authority, as I think they clearly would, to construct telegraph lines over the sites occupied by the railroads, they cannot be deprived of the right to establish such lines over or along the railroads, if, by so doing, they in no way injure the working of the roads. Upon the whole, then, in reference to the question submitted to me, I am of opinion that the acts referred to of 24th July, 1866, 10th June, 1872, and 3d March, 1873, are constitutional.

Second. The Western Union and other telegraph companies having accepted the terms of the act of the 24th July, 1866, what are the rights of the United States and the obligations of the companies? The act in question conferred great privileges upon the companies. It authorized them to construct their lines through the Territories of the United States, and granted them valuable portions of the same. The rights secured to the United States are that the telegrams of every Department of the Government shall have priority over all other business, and the rates for such transmission are to be annually fixed by the Postmaster-General.

What those rates are to be is submitted to his sole judgment. The object of the act was to give to the United States the authority to use the lines generally. No limitation of the time within which such right is to be exercised is provided for. Day or night, and at any period of the day or night, the right may be exerted. Any restriction upon it might be prejudicial to the interests of the Government, and cannot, therefore, be supposed to have been intended. It may be all-important to send communications to the different branches of the Army, wherever they may be, at an instant's notice. And so in relation to the Navy. To give to the companies the authority to say when such communications shall be forwarded would be

to submit to them the interests of the Government. This could never have been designed.

And upon no rule of interpretation can the act be so construed. That the companies must have, if this right is in the United States, operators at their several stations, day and night, ready to receive and transmit all governmental dispatches that may be handed in, is within the general terms of the contract; nor is the inconvenience to the companies occasioned by this obligation greater than that which is occasioned the officers of the Government. In the Signal Bureau some one of the operators must be on hand at all times during the twenty-four hours to receive or transmit all dispatches necessary to accomplish the objects of the Bureau. The sentinels in the Army are to be posted day and night. The same is true of the watches in the naval and commercial marine. It is no answer, therefore, to the rights claimed by the United States that its enjoyment of them will cause trouble to the agents of the companies. It is a trouble, if trouble it be, which the companies have agreed to assume, and a trouble, too, which at times may be vitally important to the true interests of the Government. And for this trouble the companies have been well compensated. The privileges granted to them and the property secured to them are of great value, and may in truth be said to be essential to their welfare. I am, consequently, of opinion that the Government has a right at all times, day or night, to have their messages transmitted by the companies who have assented or may assent to the act of 24th July, 1866. I am also of opinion that the Government has a right to drop their telegrams at all intermediate stations between the place from which they are sent and the place of their ultimate destination. The right to transmit involves the right to drop, as the dropping is a practice well known and used in the transmission of telegrams.

I understand that the Western Union Company has been advised that the rights of the Government and their own are secured by the contract growing out of the act of 1866, and that the same cannot be repealed or modified by the United States. Although the United States have not attempted to exercise such a right, and the question is not before me, yet I deem it due to the subject to say that the idea is founded upon a misapprehension of the Constitution.

The tenth section of its first article provides that "no State shall pass any law impairing the obligation of contracts." But this restriction, by its very terms, applies only to State legislation. What Congress may do, and is authorized to do, rests upon grounds irrespective of this provision. That such is the correct view, several judges of the Supreme Court of the United States have more than once declared in official opinions, and I am not aware that any judge of that tribunal has ever expressed a different view. The only limitation upon the power of Congress is to be found in the fifth constitutional amendment, which declares that "private property" shall not "be taken for public use without just compensation." But what is proposed by the Government in this instance is not to exercise the right of eminent domain by appropriating private property for its own use, but to insist that the companies shall comply with their engagements entered into under the authority of the act of July 24, 1866, and for which they have been fully compensated. But conceding, for argument's sake, that there is a contract between the Government and the companies who assented to the act of 1866, and that the same is protected by the constitutional clause first referred to, it is still evident that the same will not be in any way impaired by the Government's not sending its dispatches through those companies, or by constructing a telegraph line for itself. As to the first, the Government has not agreed to send its telegrams by the companies. It has only reserved the right to do so. It may, therefore, not send any, or only a portion, of its dispatches as it may think best.

Secondly, by constructing a line for itself, running near or in juxtaposition with the existing lines, it will not violate any such supposed contract. The States may authorize competing railroads, or canals, or bridges. The question of the right in the latter instance was decided in favor of the right by the Supreme Court of the United States in the case of the Charles River Bridge vs. Warren Bridge, 11 Peters, 536. If a State has the authority here adjudged, *a fortiori* have the United States. I am, therefore, clearly of the opinion that the Government may construct a line of its own, and transmit all messages which it may have occasion to transmit, and that the same will, in no respect whatever, interfere with any right of the existing companies.

I remain, with regard, your obedient servant.

REVERDY JOHNSON,
Assistant Attorney-General.

Brevet Brigadier-General ALBERT J. MYER,
Chief Signal Officer, Washington, District of Columbia.

What is proposed now to be attempted is a carrying out of the suggestion of Mr. Postmaster-General Cave Johnson. It is to put this matter where it can be controlled by law; and there is no question here of ingrafting a Federal franchise upon a State corporation; there is no delicate interference with the powers of the States contemplated by the amendment which I have submitted. Let me say to those Senators around me who may have doubts on the subject that there is not a letter in the amendment which makes it obligatory upon the corporations existing under State authority to adopt it; and how often has it happened that Congress has enacted laws imposing duties upon State officials without any question of authority or propriety having been made? How often has it happened that Federal power was cast upon local officers existing under the States, which simply addressing itself to them said: "You can exercise this or not? That is all." Nobody would pretend to say that if a corporation existing under the laws of a State were to refuse to accept the provisions of this amendment any power exists to compel it, any more than you could compel a State magistrate, who under the laws of Congress as they now stand can arrest a deserter from a merchant ship and enforce an act of Congress. Still I have known that duty to be discharged and discharged faithfully by State officers without any dream of impropriety, without any question of a conflict of power being brought in at all. There is a law on the statute-book now imposing Federal duties on State officers which they may discharge or not at their pleasure. Sometimes they discharge them; sometimes they do not. In this case we say that the existing State corporations, organized under the laws of the States and owing allegiance to those laws and to the sovereignty that created them, may take advantage of this act of Congress or not, as they think proper, in the interest of the general public; and what question can there be made about that?

Mr. Webster, as you know, in the great case that he debated here in 1833, took a ground which received the sanction of a very large portion of the people of this country, that where the question in controversy was between the powers of the General Government and the State, when the Supreme Court of the United States decided in favor of the powers of its own Government, that decision was conclusive.

That was the doctrine entertained for a long while in a constitutional point of view. I do not subscribe to it in its full length and breadth, and still there is much in it that could be accepted with a due regard to the preservation of the integrity of the powers of this Government.

This is not a question arising between two departments of the same Government, but the question presents a Federal one. The claim of a State to regulate this subject was set up. The claim of the General Government on the other hand was asserted. The Supreme Court decided most emphatically that the power resided in this Government, and that it has a right to control it, and that position will stand; and any controversy that may arise now, while this law exists, in any of the States, will be controlled by that judgment and by the existing legislation which it has expounded and enforced. I thought it harsh and hard, but nevertheless I am in the habit of bowing to the supremacy of authority, and I yield my convictions, I yield my judgment to the high judicial tribunal that sits near at hand; and notwithstanding my individual opinion to the contrary, I said that when they declared this is the law, I saw no way to modify it, but to give the people the benefit of the great principle that is involved in that decision in the manner suggested by my bill. I said to them: If you propose to legislate a foreign corporation into my State to do a corporate business there, I want you to give to a domestic corporation the same rights. That is the principle they have settled, and unless you have the power to reverse this judgment and go back on the whole thing, you will leave all the advantage as it exists to-day with the greatest corporate power in the United States.

Mr. President, I am glad that the mind of the Senate and the public has been directed to this great question. I do not regret the agitation through which we have passed. I do not regret the light that has been thrown upon it. I am glad for the sake of the public, I am glad for the sake of the country, that public attention has been directed to this great topic, because in a country like ours where public opinion ought to control it is never dangerous to probe these great questions to the bottom. I could go into a great deal in connection with this subject that would raise, I suppose, a popular clamor against corporate rights, but I want corporate bodies to understand that so long as I have the honor to hold a seat here they no more than any man who has just legal rights shall be attacked by me. I make no inroad on their legal privileges; I make no onslaught on their already conceded privileges under existing laws; but I want the fair thing done. I want these principles extended. Having said that telegraph companies with nothing but a local existence can perambulate the whole continent and engage in the transmission of intelligence, I only ask that railroad corporations that have just as much claim and more facility to perform this duty shall have the same privilege. For that I am willing to vote.

Much clamor has been raised in regard to the power of the great monopolies, as they are called, that now exist; great figures have been paraded to show what they have accomplished by swallowing up corporation after corporation, until this whole business of the transportation of intelligence on this continent is in the hands of a few individuals. I say it is well to investigate; it is well to go to the bottom of this subject; and I agree with the great Earl of Chatham when he said there were times and occasions when agitation was proper, proper to be made in the interest of the public; and he said there were times when in letters of living light it ought to be written on the dome of every legislative body, that it is better to have our slumbers broken by the fire-bell than to perish amidst the flames in our own bed.

Mr. BAYARD. Mr. President, when I consider the character of the questions brought forward by general legislation on appropriation bills, it would almost seem that the relations of our State and Federal Governments and their respective jurisdiction and powers were as unsettled to-day as they were in 1789. I protest, although I feel it is in vain, against being called upon in the last hours of a session and through provisions of general legislation viciously ingrafted upon appropriation bills, to cast votes upon the vexed and debatable questions of the powers of the States of the Union and of the Federal Government, over the commercial intercourse transacted through the agency of corporate bodies created solely by the authority of the several States. I can only hope that the sense of the country as well as of the two Houses of Congress may be awakened to the extreme danger to our institutions of government in thus legislating through the forms of general appropriation bills. The more I consider it, the more dangerous does it seem to me that we should ingraft upon bills which should be framed merely to provide money to carry into effect existing laws and supply means for the regular expenses of the Government general propositions, so fundamental and far-reaching in their results, as the one now before us.

On the fourth page of this bill to appropriate money for the Army is a proposition to pay for telegrams:

And telegrams are authorized to be transmitted by railroad companies, which may have telegraph lines, for the Government and for the general public, at rates to be fixed by the Government.

What is in reality the end thus sought to be obtained? We all know that there are railways through the public domain of the United States; but there are no railroad companies operated solely under charters created by act of Congress, there are none incorporated by act of Congress except those which pass through the public territory

of the United States. So then we find the proposition contained in this bill is, that Congress can add functions to those already possessed by those artificial persons created by the laws of the several States. Why, Mr. President, if we admit this principle, where does it carry us? If Congress may add one function to a State corporation, it may add as many as it sees fit; if Congress may add to the powers of State corporations, by the same reasoning it may subtract from them; and do Senators now intend to vote in recognition and admission of such doctrine? Is it possible that the capital, private capital, not one dollar of which came from the coffers of the public, that that which has been invested and has arrayed itself under the protection of State charters, is now to be withdrawn from its chartered limits of duty, liability, and protection and subjected to the will, the unlimited will, of any temporary and accidental majority of the two Houses of Congress? Why, sir, it seems to me the simple statement of such a proposition must surely alarm any man who has duly considered the Constitution of our Government and the relations of the States to the Government of the Union.

The objection to it is fundamental. It seems to me that it is to deny to the States the power of incorporation, to impose any restriction upon their own artificial creations, because if Congress can, as is proposed by this amendment, convert a railroad company into a telegraph company, it can turn a railroad company into a manufacturing company. In other words, the whole object of the creation of these artificial beings, which by the very law of their being can perform no function that they are not authorized to perform, either expressly or by necessary implication, may be changed by Congress. If Congress can thus ingraft telegraphic functions and powers upon a railway company, why not banking powers? I beg Senators to pause before they commit themselves to the doctrine, that these artificial creations of the States, created for State ends, guarded by State restrictions, fettered by the principle of self-preservation of the States themselves, shall be emancipated at the will of Congress and allowed to undertake any other business which may seem to be expedient or useful.

I do not deny the wisdom and usefulness of free telegraphing. I do not deny that much exists in the way of a monopoly. A power so great that it can absorb almost all the smaller independent particles of power, necessarily becomes too enlarged for public safety; but there is nothing to prevent the several States of the Union from enlarging the chartered powers of their own railway corporations so as to allow them to open their lines of telegraph for public business. No one can object, no one would doubt I think that it would be a wise enlargement of their usefulness that there should be widespread competition in telegraphic correspondence. There savors too much of monopoly at the present time, and too little of the power of State restriction over these corporations.

The power of restriction and enlargement by the governments of the States themselves, I hold to be the proper engines to accomplish the reforms which we all deem necessary. I do not believe in the power of the General Government to interfere at all with the diminution or enlargement of the functions of State incorporations. I cannot believe that the effect of such a statute can be fully understood by Senators who propose to vote for the proposition, so shrewdly contained in these four lines reported by the Committee on Appropriations.

As I say, there is no one more sensible than I of the abuses that have been committed under our present telegraphic system. We all recognize to-day as a matter of fact, that there are no means of communication in which the privacy of confidence, or the confidence of privacy, is so little respected. There have been of late conspicuous cases of unmitigated betrayal of confidence which I am sorry to say this and the other House of Congress, have been too ready to enforce, so that it has come to be well understood, that the message which is written in the intention of strictest possible confidence by telegraph, must necessarily be known to a number of agents, and in fact has the increased danger of being preserved in writing, only to be made public against the interests and wishes of the parties sending or receiving.

Mr. President, the decision of the Supreme Court in the case from the State of Florida, important as it is and far-reaching in many of its results, has been commented upon by my honorable friend from Florida. No one in the Senate is better competent than he to discuss that case, because he took a chief part in its elucidation; and it is well known how admirable are his powers and high integrity; but it seems to me that he has carried the effect of this decision further than the court intended. As I read the decision, it goes to this extent, and no farther, that it is simply the right and the duty of Congress to see that intercourse among the States and the transmission of intelligence are not obstructed or unnecessarily encumbered by State legislation. That is, that Congress, being by the Constitution intrusted with the regulation of commerce among the States, shall see that no State obstructs commercial correspondence, as the transmission of intelligence, which is akin to it and incident to its proper execution. In considering the act of 1866, which the Senator assumes gives to the Congress of the United States the right to charter at will telegraph companies all over the Union, I do not understand that the court goes to that extent; on the contrary it says of this act of 1866 that it—

Gives no foreign corporation the right to enter upon private property without the consent of the owner and erect the necessary structures for its business; but it does provide that, whenever the consent of the owner is obtained, no State leg-

islation shall prevent the occupation of post-roads for telegraph purposes by such corporations as are willing to avail themselves of its privileges.

Therefore I hold, however important may be the principle discussed by the Supreme Court, it is not necessary for us to carry their reasoning to illustrations beyond those facts which they were then considering. There had been in Florida the attempt by the Legislature of that State to create a monopoly in a State corporation to establish telegraphic communication and erect lines in two named counties.

Mr. JONES, of Florida. Will the Senator yield to me a moment?

Mr. BAYARD. Certainly.

Mr. JONES, of Florida. I would ask the Senator from Delaware whether under the law any distinction can be taken between the right of a State to grant an exclusive privilege to a telegraph company and an exclusive grant to a railroad company? The Supreme Court, I think, makes very clear the distinction in regard to the transmission of intelligence. The Legislature of Florida attempted to exercise a power that had been exercised in every State of this Union with respect to a matter over which it claimed to have entire jurisdiction outside of the Federal Government. The Federal Government came in and said no. Now, exclusive railroad grants have been made in other States, and this, I claim, was in the same nature.

Mr. BAYARD. My honorable friend will see that it would be more curious than valuable for me to answer his question at this time in discussing that case, because the facts before us do not involve the question which he has stated. There is no doubt, however, that the power exists solely in the Congress of the United States to regulate commerce among the States; and as to what is meant by commerce, a definition is given by the Supreme Court in this case. The other question whether a State can grant a monopoly at all is not the question to be considered now, and therefore I had rather not attempt, in the short time which I propose to occupy, to discuss that question, but shall confine myself to the language of the amendment now before us.

This is not the question of granting an exclusive privilege by a State; this is not the question of the assertion of a power by a State to regulate commerce between itself and other States; it is whether the Government of the United States can control, enlarge or diminish the functions of the corporations created by the laws of a State, and convert them to Federal purposes. That is the question which I understand to be involved in this proposition "that telegrams are authorized to be transmitted by railroad companies, at rates to be fixed by the United States."

What railroad companies? Railroad companies who have already under their State charters the function of telegraphing in addition to their functions of transportation of passengers and freight? No, it is not confined to them. Therefore there is an assumption that Congress can add corporate functions to those not included in the grants of State Legislatures, and a railroad company which may own a telegraphic line can *ipso facto* upon the passage of this law become a telegraphic company, and more than that, a telegraphic company whose rates shall be fixed by the Government of the United States.

There is nothing additionally alarming in the last feature of the proposition, provided you have accepted the first portion. If the Government can create the corporation, or if it can authorize a State's corporation to exercise powers which the law of its creation does not include, then, that Rubicon of power once passed, the next step, that you may regulate the rates by act of Congress, is naturally incident to it. The power that creates can logically restrain; the power that can bring into being can naturally regulate the operations of its creature. Therefore, there is nothing in the proposition that the Government may fix the rates of telegraphing, that need alarm any one who has conceded the first and all-important power, that Congress can add to or subtract from the corporate functions of State incorporations. That is a doctrine I am not prepared to concede; and not intending at this time to develop this question, I do say this much by way of protest, that we are called upon to consider such questions as this at the close of the session, by way of general legislation of the most important and fundamental character, when there is no proper time for it, in the shape of amendments to the appropriation of supplies necessary to carry on the Government.

Mr. President, it does seem to me as though at the present session of Congress there has been scarcely a doctrine of constitutional power, State or Federal, that has not been brought into question. There is before one of the committees of this body an interstate commercial bill, which proposes to submit all the railway corporations, canals, and every other means of carrying on commerce between the States, to the supervisory control and restriction of Federal regulation. Why, sir, the change may come; it may be that this shadowy border-land between Federal and State authority, upon which the ablest and the clearest minds of our Government have paused in doubt, is now rashly and rapidly to be passed. But I can see in the decision of this railway problem, this vast subject, consequences that will lead us to the issue whether we are to have a centralized or a Federal form of Government, for I cannot imagine how the transfer of such powers as are sought to be claimed by the act to which I have referred, and are now claimed by this telegraphic act which I am discussing, can possibly be accepted and carried out to their necessary conclusions without the States of this Union ceasing to exist except only in name.

Sir, I am not prepared for that, and therefore it is that I hope the assent of the Senate will be withheld from such a proposition as this,

withheld at least, until they have considered where this path ends upon which they are invited now to enter. I can recognize, as fully as any man would desire, the requirements and advantages of commerce; I can recognize the necessity of telegraphic as well as railway communication; but I dread the consolidation of power, which all history tells us never was accomplished, but that gross abuse followed in its train. I am not prepared to vote in favor of a measure like this which strikes me as being fundamentally in opposition to the Federal theory of the Government under which we live and whose Constitution we have all sworn to support.

Mr. HOWE. Mr. President, I am a little surprised, in spite of the scriptural admonition, to see what a great fire a little matter kindleth. When I moved the addition of a few words to this clause of the Army appropriation bill the other day I had no conception that such a debate as we have listened to could have grown out of it. The Revised Statutes have, it seems, by great industry found a provision, or we find a provision in them, giving to the Government of the United States the right to acquire telegraph lines either from all telegraph companies or from a part of the telegraph companies—I shall not stop to discuss that question—upon a value to be ascertained by appraisers; and the Revised Statutes have commanded not merely that the Government may so obtain the lines, but that companies before operating their lines shall file a written acceptance of this condition. So that telegraphing to-day I understand to be done through the United States, the great bulk of it, by certain companies which have been coaxed or wheedled or bullied into a contract giving the Government the right to obtain their lines in the mode prescribed in that title.

I found—and I was as much surprised to find it, I think, as the Senator from Delaware could have been—I found huddled down in this bill making appropriations for the Army, in a very snug little corner, in a very unexpected, surprising, startling place, a provision declaring that railroad companies having telegraphic lines for any purpose whatever may do a general telegraphing business. Very well. I do not know how many railroad companies have telegraph lines; I do not know upon what conditions or under what authority they are constructed or maintained, whether by arrangement with the telegraph companies or otherwise; I do not know, but I assume from this peculiar phraseology in the appropriation bill that there are railroad companies that have for some purpose or other telegraph lines. I have no particular objection to saying, if you think it wise to say so, that such companies having such lines may do a general telegraph business. It will be a valid enactment or an invalid one. I do not see how it can do much hurt either way. I never should have thought of putting such a provision upon this bill; but finding it there, I do not care to do battle with it, nor even to raise or discuss for a moment the very grave constitutional questions which have been considered here this morning by the Senator from Delaware and the Senator from Florida; but I did think it very plain and very manifest that if we had authority and deemed it wise to transfer to railway companies the general right to do a telegraph business, railway companies should enjoy that right precisely as telegraph companies now enjoy it. So I proposed these few words by way of amendment, declaring that before railway companies should exercise any rights under this clause in the appropriation bill they should comply with the very conditions imposed upon telegraph companies, and should file a written acceptance in the Post-Office Department, which would subject them to the same obligations and the same restrictions as telegraph companies have agreed to. There is where I propose to leave it, and I cannot conceive that anybody would be willing that railway companies should succeed to the business of telegraphing upon any conditions more favorable than that business is now carried on by the companies expressly authorized to do it.

Now, the Senator from Florida has proposed a substitute for my amendment. It differs, I think, considerably from the amendment I moved. His grant will inure, not merely to the benefit of railway companies which have telegraph lines; it will inure to all railway companies whatever, and instead of its conferring authority to railway companies to do telegraphing on lines now existing, it is a substantial grant of power to any railway company, no matter by whom incorporated, to construct and maintain telegraph lines, adding new and very important functions to this class of corporations.

The Senator from Delaware inquired, I think pertinently and forcibly, if you can confer upon a railway company chartered by the State of New York the power to do telegraphing, why can you not confer upon it a power to do banking or manufacturing in any department whatever? But that is not all the difference which I think I see between the amendment moved by the Senator from Florida and my own. I think his amendment would release railway companies doing telegraph business from this obligation to surrender their telegraph lines to the Government upon the terms proposed in title 65. I have said that the Government does not hold to-day, as I understand it, the right to acquire any telegraph line simply because that right is declared in the statute, but because the telegraph companies have entered into a contract recognizing that right. The amendment of the Senator from Florida simply declares the right but does not require that the companies shall enter into contract to respect that right, shall accept of that condition.

Mr. JONES, of Florida. Will the Senator yield to me for a moment?

Mr. HOWE. Certainly.

Mr. JONES, of Florida. It was the intention of the amendment which I indicated to make every railroad company that might avail itself of the benefits of this provision, should it become a law, subscribe to all the conditions embodied in title 65 of the Revised Statutes. That was my intention. The question was raised by the Senator from New York that it did not apply to railroad companies that now owned and put up wires, and I was perfectly willing that an amendment should go in to include them, and I will say here very freely that I do not want the railroad companies proposed to be invested with this privilege to have any advantage over telegraphic companies now existing.

Mr. HOWE. I think, then, the Senator from Florida is in favor of my amendment as far as it goes.

Mr. JONES, of Florida. I said I was, but I did not think it went far enough on another point.

Mr. HOWE. Very well.

Mr. JONES, of Florida. But on your particular point I am willing to go the full length you desire to go yourself.

Mr. HOWE. Then I think the Senator will vote for my amendment in the first place. He will vote for that to perfect the clause as it stands, and then he will be content to try the sense of the Senate upon his motion, which will be to strike out what is now in the bill—

Mr. JONES, of Florida. My amendment is a substitute for yours.

Mr. CONKLING. Oh, no. The Senators will pardon me. The amendment of the honorable Senator from Florida is to strike out certain lines in the text of the bill; the amendment of the Senator from Wisconsin is to perfect those lines. Therefore the amendment of the Senator from Florida is not an amendment to that of the Senator from Wisconsin.

Mr. JONES, of Florida. I offered my amendment as a substitute for that offered by the Senator from Wisconsin. I think the RECORD will show what was said about it. That was my intention at the time, thinking it would carry out more fully the idea that he had in mind.

Mr. HOWE. I think the Senator will see on reflection that if he had really intended his amendment as a substitute for mine, he would have moved it to me and not to the Senate, because he is not quite in order in moving a substitute for a pending amendment. He can move an amendment to an amendment undoubtedly, but it would not displace mine. The question would be taken first on my amendment, and so I assume, I think correctly, that the Senator from Florida would be for my amendment, for I understand him to approve of that sort of provision.

Mr. JONES, of Florida. I do.

Mr. HOWE. Then the Senator will allow me to state right here why I cannot consent, with my understanding of the matter, to accept his amendment as a substitute for mine. I cannot do so for two reasons. Even if he had incorporated the very language I had used so as to require railway companies expressly to consent to accept the obligations and restrictions which are mentioned in title 65, I still should be disinclined to accept his amendment as a substitute for mine for two reasons. First, it is, as I said before, a substantial grant of entirely new functions to existing corporations.

Mr. JONES, of Florida. Will the Senator allow me to ask him a question right there? I know the time is getting short, but I shall be very brief and pointed in the question. Does he think it would be just to invest railroad companies who happen to have lines already erected with the privilege of transmitting intelligence over them by telegraph, and not give companies that have no such lines the privilege to erect and maintain them?

Mr. HOWE. Yes, quite so; for this very plain reason, and I think the Senator will see it in a moment. I assume, in the absence of any information on the point, that there is not a railway company on the continent which has a pole or a wire but what has constructed it either by the authority of some State, or by an arrangement with some existing company which could confer that authority upon it. I assume that; so that to recognize the existence of a right we now find is one thing, but to affirmatively declare that companies which have not these lines may construct them and may maintain them is a very different thing.

But I was about to state another reason why I cannot consent to this substitute. I find this provision in the Revised Statutes; I find an existing contract which authorizes the Government to take possession of telegraph lines whenever it is deemed wise to do so. I do not think much of that right I confess, but there it is. It does not hurt the Government a particle so long as the Government never exercises or asserts the right, and it is to be assumed that the Government never will assert it until it finds it for its advantage to do so.

Suppose, now, we confer this right to do telegraphing upon another class of corporations; then you will have, or may have if they accept of this provision, two classes of corporations with lines extending all over the country. Suppose the time should come when the Government finds it necessary for its purposes to take possession of the lines of telegraph companies; it would not do much good unless it also takes possession of the telegraph lines of railway companies. The result of that sort of legislation will be that the Government is compelled to buy the telegraphic property from two classes of corporations to do the work which could be done by the property of one. I cannot think that that is in the interest of economy, and so, as I

shall be very glad to have the Senator from Florida—as I am assured he will—vote for the amendment I moved, I cannot consent to accept his as a substitute for my amendment, and I shall be very reluctant to vote for his amendment if mine be voted down.

Mr. McDONALD. Mr. President, I suppose most persons are familiar with the necessity of having telegraphic facilities in this country as free from the power of monopoly as possible. The question arises whether the provisions in this bill will attain that purpose in the right way. The simple provision of this bill is to confer upon local State corporations organized for the purpose of doing a particular kind of business the power to engage in telegraphing as a business. Take my own State as an illustration. The railroad corporations of Indiana exist under the laws of that State, under the general laws framed for the purpose of organizing such corporations. Those laws confer upon them the power to locate, construct, hold, and operate railroads, and such powers as are necessary and incident to that end, and so far as they have the right to construct or own telegraphic lines under their charters, it is to facilitate the operations of their roads. Now, it is proposed by this measure that Congress shall ingraft upon these corporations new corporate powers and authorize them to engage in a new and entirely distinct enterprise from that which they were created by the States to do.

That the States may confer this authority, I have no doubt. My own State, for example, may authorize the railroad companies that she has created, the corporations that she has organized and that may own telegraph lines, or that may hereafter construct telegraph lines to be used in connection with the operations of their road, to use those lines in transmitting messages for the public; that is, to engage, in addition to the railroad business or transportation business for which they are artificially created, in the business of telegraphing. That can undoubtedly be done; but I shall have to see something more than the decision of the Supreme Court in 6 Otto to satisfy me that Congress possesses the power to confer additional charter rights and authorities upon those local corporations; and not even the specious and plausible purpose of securing competition in telegraphy shall induce me to vote for such an authority until I can be satisfied better than I have been yet of the authority of Congress. Believing that it is not within the authority, I expect to vote against these amendments in all their phases wherever they propose in any way or in any shape to exercise the power of amending State local corporations by the exercise of legislative authority by Congress.

Mr. HILL. Mr. President, I wish to say for myself that I did not have the advantage of being on the committee which has been investigating this subject, as I understand, at length; and especially the expediency view of it has been before that committee. I understand a great deal of testimony has been taken. That testimony, as far as I am informed, has not been printed; it has never been laid before the Senate, and we have not the advantage of knowing what the testimony is. It seems to me, therefore, that at this stage of the session, in the last days of the session, with the testimony that has been taken not before us, it is a little hazardous to act on the subject, on an amendment to an appropriation bill, when there is a regular bill before the body and upon which regular bill all this testimony has been taken.

Mr. JONES, of Florida. The Senator will allow me to interrupt him a moment.

Mr. HILL. Certainly.

Mr. JONES, of Florida. I say to the Senator that the testimony was not taken with reference to the bill now before the Senate, but under a resolution introduced by the Senator from Oregon asking that the subject be investigated. The bill now before the Senate was reported at the last session favorably by the committee and has been on the Calendar ever since.

Mr. HILL. The point remains that the Senate ordered the investigation, and the investigation has been had, and the testimony taken has not been reported to the Senate or printed as far as I know. I have not had the benefit of it at least; I have not seen it, and, therefore, we are in the condition of voting upon a question which the Senate has deemed it important to order an investigation upon, the investigation has been had, and that investigation has not been reported to the Senate. It seems to me we ought to have the benefit of the testimony taken before that committee.

Mr. CONKLING. If the Senator will pardon me the case is stronger than I understand him to state it. He refers to a resolution instructing the Railroad Committee to make an inquiry, and the Railroad Committee, as I understand it, has reported, we had read here the other day, an amendment proposed to some bill still in the hands of the committee creating a commission to make inquiries still more at large of the very matters to which the Senator from Georgia now refers.

Mr. HILL. That is true. I had understood that much, that the committee finding by the investigation that the subject was a very large one, and that they could not, as I suppose, do it justice by an investigation at this period of the session, have recommended that a commission be established for that purpose. That, as the Senator from New York says, does make it stronger.

Now, it occurs to me that we are in this attitude: we have ordered an investigation, and an investigation has been partially had; the result of that partial investigation has been the recommendation of a still further investigation by a regular commission; and pending

that investigation and before we get the information we desire and which we have ordered, we are now proposing to take final action on the matter which will dispose of it. That does not seem to me to be proper.

One more thought, Mr. President. Outside of that mere question of expediency and policy, of which I know but little because I have not the information, there is unquestionably involved in this legislation as important a question of power as could possibly arise under the Constitution; and it seems to me the Senate ought to be very careful before it commits itself for or against that power. For myself I frankly confess to the Senate that I am not prepared to commit myself one way or the other. My mind has a very strong inclination, I admit, against the exercise of the power. The argument made by the Senator from Delaware [Mr. BAYARD] is to me a favorable one, and it occurred to me yesterday. I have been investigating this question during the last forty-eight hours since I heard it mooted here in the discussion on Saturday. I had not previously, I admit, turned my attention to it. I have gone far enough in the investigation to satisfy my mind that there is no larger question of constitutional power that can be presented to this body than the one involved in this proposed legislation. It is a novel thing, anyhow, that so large a question should have to be considered on a mere amendment to an appropriation bill, a question of constitutional power at this period of the session and in this state of the case, with an incomplete or an incomplete investigation pending.

If Congress has the power to add to the franchises of a State corporation, Congress has the power to take away from the franchises of a State corporation, Congress has the power to modify the franchises of a State corporation, Congress then has the power to control a State corporation.

Mr. JONES, of Florida. Will the Senator allow me to ask him a question?

Mr. HILL. Yes.

Mr. JONES, of Florida. Will the Senator be prepared to say that because an act of Congress gives to a justice of the peace the power to exercise the functions of a United States commissioner under the laws of the Union, it would have the power to take away his commission?

Mr. HILL. No, sir, I do not, because that is a mere permission; but here you propose to confer upon a railroad company a franchise, and when you confer a power upon a justice of the peace you do not create a franchise.

Mr. JONES, of Florida. The Senator from Ohio [Mr. THURMAN] said it was no franchise.

Mr. HILL. It seems to me it is. If it is not a franchise, why do you confer it on a corporation? What is it if it is not a franchise, and why confer it on a corporation? If it is not a franchise, why not confer it on an individual?

But the point I make is this: understand I am not determining this question; I was saying that assuming it to be a franchise, (and it is so treated as I understand by the Supreme Court, and it seems to me it is so treated by the Legislature of New York that created this great corporation on this subject; it is so treated by the State of Florida which created a corporation on this subject which my friend remembers, and it has been generally treated as a franchise proper to be conferred upon a corporation,) then if Congress can take away one franchise of a State corporation, it can take away all; if it can add one it can add all; and it is simply a proposition which, if carried out to its logical extent, must gather to the Federal Government the entire control of all corporations that deal in any manner with commerce or with the postal service, or that can be used in relation to commerce or in relation to the postal service, or in the greater and broader phraseology which I hear used on this floor, in the business of transmitting intelligence. If Congress is to gather to itself control over all the business of transmitting intelligence, control over all the agencies engaged in transmitting intelligence, it is a very great and absorbing power; and if Congress under the power to regulate commerce is to get absolute control over the whole business of commerce and all the agencies engaged in commerce, why may it not get control over all the persons engaged in commerce? Where is the end of it? Was it ever intended to give Congress the power to control the subjects of commerce, and the persons engaged in commerce, and the agencies of commerce down to an individual who lives in the State of Florida and goes to New York to buy goods? That is interstate commerce. A merchant in Florida goes to New York to buy his goods; and that is interstate; he passes through different States. He can go by railroad; he may go by sea. Can Congress take charge of him? Can it take charge of his business?

I make these remarks to say that it occurs to me that there is danger that the power we now invoke has a reach that we have not contemplated and we are not in condition now to determine; I am not, I frankly confess. I had rather not commit myself upon this question. If the power really exists, I am willing to exercise it to prevent abuses if those abuses appear. If the power does not exist, I do not wish to exercise it, and I do not wish hastily in the last moments of a dying Congress to be committed to a proposition which involves such far-reaching consequences and which I want to have not only a day and not only a few days, but weeks and months, to consider. It is a question than which I know of none that is larger; it is a question which goes further into these great controverted powers of Fed-

eral or State jurisdiction than any I have investigated for many days. I am unprepared to determine upon it, and I prefer that we should take proper time to consider it. If there are abuses existing of which I do not know, they have existed for a long time, and why this haste, why this necessity to correct these abuses in a day? These companies have been existing for years; this movement has not hitherto been made; and now, as soon as it is made, why determine it so soon, so speedily, so rapidly? Why not take time to consider it? I for one insist that we shall take time to consider it. That is all I want. Then I shall determine whether or not I can vote for a bill on the subject after I have had full time to examine it.

It seems to me the proper method, with all due deference to the gentlemen offering these various amendments, for the purposes of this session and this bill, the only wise method, is to strike out this section altogether and all the amendments, and leave the question to be considered. Then the recommendation which the Senator from New York alluded to, made by the Committee on Railroads, to appoint a commission to investigate this subject may be acted upon, and at another time I think we shall be able to determine this question more wisely.

I listened with interest to the argument of the Senator from Florida. I have read with interest the decision made by the Supreme Court. I have profound respect for that court, very great respect for that court. I admit, for the case decided, that decision is law. I am not one of those, however, who are willing to take the ground which seems to have been indicated by some Senators, that I as a Senator, a member of a co-ordinate and independent department of the Government, am compelled to adopt the decision of the Supreme Court as law which binds me. I think that when I swore to support the Constitution I took an oath to support the Constitution as I understood it, and not as somebody else understood it; nevertheless, in determining questions of that kind I should defer very greatly as a matter of respect to a decision made by the Supreme Court, but with the reading I have given the decision made in this case, I am not satisfied that it is correct. It seems to me, therefore, the better plan is to strike out this whole clause and let us go on with the bill.

Mr. MITCHELL. Mr. President, reference has been made by the Senator who has just taken his seat, the Senator from Georgia, [Mr. HILL,] to the action of the Railroad Committee on this general subject, and it is proper that I should state at this stage of the discussion precisely what has been done by that committee in reference to this whole subject. At the last session of Congress a bill was introduced by the honorable Senator from Florida [Mr. JONES] covering the subject of authorizing railroad companies to do a telegraphic business for commercial purposes. That bill, on his motion, was referred to the Committee on Railroads, and, as was the custom, it was assigned to one member of that committee for investigation. No hearing was had at that time on the bill; I mean by that, no outside parties, for or against the bill, were heard either in the way of submitting arguments or producing testimony before the committee. A report was made to the committee by the honorable member to whom it was assigned, and without much consideration, I must confess, without that proper consideration that a subject so important should have received, I frankly admit, it was agreed that the member who had charge of the bill should report the same to the Senate, reserving for myself, as I did at the time, specifically and specially the right to investigate the subject thoroughly and take such action as I chose when the bill came up for discussion in the Senate, stating that I had not investigated the subject and did not at that time profess to understand it. The bill was reported to the Senate from that committee by the honorable Senator from Ohio [Mr. MATTHEWS] on the 1st day of June last at the last session. That was but a short time, as the Senate will bear in mind, before the adjournment of the last session of Congress—but some two or three weeks. At all events, the bill was not reached for action at the last session. When the present session of Congress convened, this general subject of telegraphy began to be discussed by the various newspapers in the country. Attention was being attracted *pro* and *con* in reference to the Jones bill, as it was termed. Some time after the session convened, applications were made to the Railroad Committee by various parties to be heard. Some of these parties were warmly in favor of what was known as the Jones bill. Others were bitterly opposed to what was known as the Jones bill, and desired to be heard upon the ground, as they claimed, that their private interests and private business were to be affected by this legislation, and inasmuch as they had not been heard when the bill was reported they desired to be heard by way of argument and testimony before the committee. Informal consultation was had by members of the Railroad Committee and it was agreed informally (and I think I may refer to this as a matter showing the history of the proceeding) in order that this subject might be investigated before that committee as it should be investigated, in order that all parties in interest, those in favor of authorizing railroads to do a commercial business in telegraphy, and those who were opposed to it also, that those might be heard who were in favor of the Government taking charge of the whole business under the form of a postal telegraph system, that we should give a hearing to all parties so far as we were able to do so at this session of Congress; and it was agreed instead of recommitting the bill which only related to the one subject of authorizing railroad companies to do a telegraph business, that a resolution should be introduced instructing the committee to inquire into the whole subject. A resolution was introduced, I think,

on the last day of January, which was adopted by the Senate unanimously, instructing the Committee on Railroads to do what? To inquire into this whole subject, and particularly into the expediency of authorizing railroad companies operating interstate lines to do a telegraph business for commercial purposes.

Under that instruction the Committee on Railroads proceeded to take testimony, to hear arguments; representatives of railroad companies were heard, representatives of the Jones bill were heard, representatives of the existing telegraph companies were heard, representatives of those advocating the postal telegraph system were heard. The committee remained in session some ten days, every day as far as they could consistent with other duties, engaged in this purpose. Finally the testimony and arguments closed, and we were called upon to act under the instruction of the Senate. A meeting of the committee was held; the testimony we had taken was not printed, although there was a pretty full attendance all the while the investigation was proceeding. After hearing all this testimony and arguments, they came to the conclusion that this was a very important subject, involving grave questions of constitutional and public policy, and one that ought to be considered more at length than the committee could possibly do at this session of Congress, and they reported this resolution unanimously to the Senate. When I say unanimously, I mean that every member of the committee present voted for it, and every member of the committee who has been consulted on the subject approves it, and every one has been consulted with the exception of the Senator from Minnesota, [Mr. WINDOM,] who is so much engaged as chairman of the Appropriation Committee. That resolution is to this effect; it provides for the creation of a commission—

Whose duty it shall be to make a thorough examination into, and investigation of, the relations existing between the Western Union and other telegraph companies and the public as affecting interstate commerce and the public interests; also the relations between such telegraph company or companies and the New York Associated Press Association and other press associations of the country, national or local, in so far as the interest of the interstate commerce of the country and the public generally are affected thereby; and to report to the President of the United States on or before the 1st day of December, A. D. 1879, the result of such investigation, together with the testimony taken; also their recommendation as to what legislation, if any, is expedient and proper as affecting the business of telegraphic communication between States, in the interest of the public generally, and of interstate commerce in particular; and especially to report their conclusions as to the constitutional power and governmental policy of authorizing and compelling railroad companies to transact a telegraph business, for commercial purposes, on interstate railroads, and of authorizing the connection of lines of different companies; also their conclusions and recommendations as to the constitutionality and policy of the creation by Congress of a postal telegraph system under the direction and control of the General Government, and as to the right and duty of Congress to regulate the rates of any such telegraph companies on interstate lines, and to prevent such companies from according exclusive or exceptional privileges to the press associations, national and local, of the country.

That is the substance of the resolution that the committee recommended be incorporated in the civil sundry appropriation bill to be passed by Congress. No action was taken of course in reference to the bill that had been previously reported and was still on the Calendar and not before the committee. On the contrary, I say this in justice to the honorable Senator from Ohio [Mr. MATTHEWS] who reported that bill, and he distinctly reserved the right to call up that bill or to have such action taken on it as might be thought proper in case it should be reached. That is the whole history of the matter so far as the Railroad Committee has had anything to do with it.

Mr. CONKLING. Mr. President, I rise to make an observation more in the nature of an appeal to the Senate than anything else. I will give way in a moment, as I see the Senator from Massachusetts [Mr. HOAR] rises. On Saturday by unanimous consent an agreement prevailed under which at three o'clock to-day, now fifty minutes hence, debate is to cease and the voting to begin on the bill and all the amendments. I feel some interest in the provision under consideration and I also feel an interest in several other amendments, some of which I wish to offer myself, and about which I should be glad of an opportunity to say a word. The debate has gone on now since twelve o'clock and is likely I fear, unless the Senate is reminded, to proceed until three o'clock. Therefore feeling more right to speak to myself than to any other Senator, I shall forbear to say some things that I should be very glad to say about this provision touching telegraphy, in the hope that other Senators also may abstain, so that in the end we may have five or ten minutes at least to devote to some other provisions and to some amendments relating to them which are somewhere near as important as the particular subject now undergoing consideration.

As I am on my feet however, and as I felt on Saturday that I misplaced myself somewhat by advocating one of the amendments offered, I wish to make a single observation about this provision touching telegraphy. I shall vote to strike it out, whatever form it may assume. I shall do so because I think it out of place on an appropriation bill, and because I agree with very much that has been said by the Senator from Georgia, the Senator from Delaware, and the Senator from Wisconsin about the idea of Congress attempting, particularly in this summary way, to cast out its shoe all over the land to add to or take from the franchises conferred by States on State corporations. Again, I shall do so because the subject is a large and complicated one, because in so far as one committee at least could do so, measures have already been taken to bring before us that without which legislation in this regard is a mere game of blind-man's bluff.

Therefore I shall vote to strike out this provision from the bill.

but meanwhile I shall vote, and I hope the attention of other Senators will be sufficiently invited to induce them also to vote, in favor of such amendments as may mitigate what seems to me the baldness and crudity of the House provision, so that if in truth it shall be the judgment of a majority of the Senate that anything of this sort should stand in the appropriation bill, it may be not as bad as it is, which I think is about as bad as can be, but that it may be as good as the suggestions of Senators are able to make it.

But, Mr. President, I forbear to say anything further about this matter in the hope that we may get a vote, and get an opportunity for subsequent amendments.

Mr. HOAR. I wish to make one point only in this discussion, so simple that I presume it will occur to the reflections of most Senators, and at the same time so important that it ought not to be left without being adverted to in the debate. This amendment proposes to clothe all the railroad companies in the country, whether established by State authority or not, with the power of entering upon the important commercial business of telegraphing. It is not a mere authority to such railroads as may get leave from their States to obtain certain national advantages under an act of Congress, but it undertakes, and it is nothing unless it succeeds in the undertaking, to clothe by our authority State corporations with this function. I suppose nearly every State which establishes railroad or other corporations provides that under certain circumstances the acts of the majority of the stockholders, or the acts of the directors, shall make the private property of the stockholders liable for all the debts of the corporation. A railroad company that undertakes to build and construct its track in my own State, until all its capital stock has been paid in, and paid in full, in cash, renders every stockholder, widow, orphan, poor man, liable for the debts of the corporation.

I suppose it is unnecessary to say that liabilities to a very large amount may be incurred in the course of this business. I was once myself consulted by a man who had sent by telegraph a message to an agent to accept a great contract with the Government during the war, and the telegraph company failed to deliver the message, and he lost profits by reason of not having that bid arrive in season which would have amounted to several hundred thousand dollars; and although by the laws of Massachusetts that was not an item of damage for which he could hold the company responsible, yet, by the laws of a great many other States in the Union the company would have been liable for that amount of damages.

I should like to inquire of the Senator from Florida if he claims that it is within the constitutional power of the Congress of the United States to permit the directors, or to permit the majority of the stockholders, of a Massachusetts railroad, or a railroad in any other State where their action is limited carefully by State authority, to render the private property of every person who happens to hold a share of stock in that corporation, without his consent, liable for a new, a vast, and illimitable business, which he never expected to undertake when he subscribed his money, which the corporation which he entered into, the *quasi* partnership which he entered into, was not authorized to undertake by the law of the State which chartered it?

Mr. JONES, of Florida. Does the Senator want an answer?

Mr. HOAR. Yes, sir. I have never heard before a claim from any quarter of the Union of a national authority extending to that length.

Mr. JONES, of Florida. I say it is just as competent for Congress to do that as to give to a corporation created in Massachusetts for telegraph business, whose powers by its charter are confined to the limits of that State, the right to ramify the whole Union in the same business and extend its capital and expand its power to meet the necessities of the telegraph business in the whole Union.

Mr. HOAR. I do not inquire of the Senator whether in his judgment it is as competent for Congress to do that as to do something else. I only inquire whether in his judgment it is competent for Congress to do that. Is it competent for Congress to do the thing which I have described, is the question which I hope the honorable Senator from Florida, if he pleases, will answer.

Mr. JONES, of Florida. I take a different view of this question from the Senator from Massachusetts. I do not conceive that there is anything obligatory in this provision; it is entirely permissive; it is with the corporations to exercise it or not, and it is a mere voluntary power, and I think it is perfectly legitimate.

Mr. HOAR. The Senator from Florida, as I understand him, replies that under this bill the corporation acting through its majority may subject the private property of the minority of its stockholders to obligations which under the law of the being of the corporation, as it at present exists, they could not be subjected to. If that be true, does the Senator from Florida hold that by an act of Congress we can give the same right to private partnerships, and that a partnership created for the purpose of engaging in the business of a railway, the business of an express, may be clothed by an act of Congress with the power of entering upon another and different commercial undertaking, and rendering the property of all the partners liable? A corporation is nothing more than a partnership, with certain modes of action prescribed by law, and certain exemptions from individual responsibility prescribed by law. If it is in the power of Congress to remove those State exemptions or to broaden the sphere of the action of the State corporation, it can do the same thing by the same reasoning in the case of a private partnership.

Mr. MERRIMON. Mr. President, I will detain the Senate but two

or three minutes in explaining the ground of the vote which I propose to give on this proposed amendment. I do not encounter the difficulties that seem to lie in the way of many Senators in coming to the support of the amendment proposed by the Senator from Florida. It is conceded that Congress has the power under the Constitution to regulate the manner of transmitting news, and I shall not occupy a moment upon that point. It is conceded, so far as I have heard in this debate and so far as I understand the Constitution. The State of New York incorporated the Western Union Telegraph Company, and the very object of that corporation was to transmit information not only in the State of New York, but throughout the country, wherever it was appropriate and necessary that news should be transmitted. Without reference to any power that might be conferred by Congress upon that corporation, it had powers by virtue of its charter as well as by the general law of corporations not only to transmit news in the State of New York, but in every State in the Union, unless by some proceeding in some State outside of the State of New York it should be prohibited from doing so; just as a bank corporation incorporated in the State of New York for the purpose of banking business in the city of New York may transact business in the State of North Carolina or in Louisiana or anywhere else, unless the States of North Carolina and Louisiana have interposed to prevent that bank from exercising its corporate powers in those States. Therefore, I repeat, by the general law of corporations as well as by the corporate powers conferred by the State of New York, the Western Union Telegraph Company had the right to transmit news throughout the Union; but, as I have already said, Congress has power, when it shall see fit to exercise that power, to regulate the manner of transmitting the news, just as it has power to regulate our whole postal system.

Congress saw fit in the past, in the exercise of its power, to regulate the manner of transmitting news by telegraph companies; and that general legislation embraces the Western Union Telegraph Company. It provided that that corporation, although it was a State corporation, might exercise certain powers which it was in the competency and power of Congress to confer upon it. The powers conferred by Congress were only in aid—I repeat that, for that is material—they were in aid of the corporate powers conferred by the State of New York. Therefore the decision of the Supreme Court is correct. The purpose of the corporation in New York was to transmit news. It might do it by virtue of its corporate powers conferred by the State of New York, but Congress interposes with its higher powers on this subject and confers an additional power in aid of the powers conferred by the State of New York; and therefore the State of Florida cannot interpose to abridge the power conferred by Congress. The power conferred by Congress was in aid of the corporate powers conferred by the State of New York. This case is not like the case put by the Senator from Delaware, of a banking corporation or a corporation for purposes of merchandise, because Congress has no jurisdiction under the Constitution to confer powers in that respect as it has in the other respect of transmitting news. In the one case it confers powers clearly within its jurisdiction; in the other it would undertake to confer powers clearly without its jurisdiction. Congress has power to confer upon these railroad companies in the several States the right, the power, the immunity, the privilege, whatever it may be called, to transmit news, provided the State has undertaken to confer the power upon such corporation to transmit news.

Mr. McDONALD. The States have only given them the general powers necessary to do railroad business.

Mr. MERRIMON. Ah, that may be; I shall not stop to inquire how that is; but it is clearly competent for the States to confer upon a railroad company power to transmit news. I do not doubt that in many places, probably generally, by virtue of the large powers conferred upon railroad companies, they could transmit news. I think it is very generally so; I am sure it is so in my State. I think that the corporate powers conferred upon the railroad companies in North Carolina are broad enough to warrant them in transmitting news; and then if Congress shall see fit by this general provision to confer upon those corporations the right to transmit news, the power conferred by Congress operates for the benefit of the railroad companies as well as for the benefit of the Southwestern Telegraph Company exactly in the same way, by the operation of the same principle. It may be that in some of the States the powers of railroad companies are such that they can have no right by virtue of their corporate powers to transmit news, and in that case the power sought to be conferred by Congress would not operate, because there is nothing for it to operate upon. The corporation in that case would have no right to transmit news, and therefore the action of Congress could not be in aid of such corporation; but in all cases where the railroad company has a right by virtue of its charter to transmit news, the provision in the amendment proposed by the Senator from Florida, if enacted into a law, would confer upon a railroad company exactly the same right and measure of power that it has conferred upon the Southwestern Telegraph Company. If it should turn out that they had no such power and they undertook to exercise it, in that case the Government might interpose against its exercise. Perhaps a stockholder might interpose to prevent its exercise. Perhaps a railroad company might interpose to prevent such an exercise of power; but still that does not interpose to prevent the Congress from conferring the power upon a railroad company if it has this power. If it has

no such power, then the law of Congress does not apply. If it has such power, then it does apply, and everybody concedes it ought to apply, in order to break down a great monopoly in this country. It can do no harm; it may do infinite good.

This measure goes, I repeat, upon the general ground that Congress has the power to select its instrumentalities to execute this power of the Constitution. Congress has power to regulate the transmission of news. I do not doubt that Congress can create a great corporation for the transmission of news, and for carrying the mails throughout the country and throughout the world. I do not doubt that; but Congress does not see fit in its wisdom to exercise that power; it employs other instrumentalities; and so it may employ the instrumentality of the railroad companies, if by their charters they have the corporate right to transmit news, to authorize them to do it, and to regulate the manner in which they shall do it.

That is all that is proposed by the amendment of the Senator from Florida, and I repeat what he said a moment ago. The powers conferred by this proposed act of Congress are not forced upon these corporations, they are merely permissive; they may exercise them if they will. The prospect is that they will exercise them, and if they do not, they will go very far toward breaking down a corporation that carries on its business in such a way that while it is to the advantage of the country, at the same time it is very much to its detriment.

Mr. CONKLING. Now, Mr. President, cannot we have a vote?

The PRESIDING OFFICER, (Mr. WHYTE in the chair.) The question is on the amendment proposed by the Senator from Wisconsin [Mr. HOWE] which the Secretary will report.

The SECRETARY. On page 4, line 81, after the word "lines," it is proposed to insert:

And which shall file their written acceptance of the restrictions and obligations imposed on telegraph companies by title 65 of the Revised Statutes.

The PRESIDING OFFICER. On this amendment the yeas and nays have been ordered.

Mr. MERRIMON. What becomes of the amendment of the Senator from Florida, [Mr. JONES.]

Mr. CONKLING. That is not in order until afterward. That strikes out, and this perfects.

The Secretary proceeded to call the roll.

Mr. TELLER, (when his name was called.) I am paired on this subject with my colleague, [Mr. CHAFFEE,] who is sick. If he were present, I should vote "yea."

The Secretary resumed and concluded the call of the roll.

Mr. BAILEY. I wish to announce that the Senator from New Jersey [Mr. RANDOLPH] is confined to his room to-day by illness.

The result was announced—yeas 39, nays 23, as follows:

YEAS—39.

Allison,	Davis of Illinois,	Hoar,	Morgan,
Anthony,	Dawes,	Howe,	Morrill,
Barnum,	Dorsey,	Jones of Nevada,	Rollins,
Blaine,	Eaton,	Kellogg,	Sargent,
Burnside,	Edmunds,	Kirkwood,	Saunders,
Cameron of Pa.,	Ferry,	McDonald,	Voorhees,
Cameron of Wis.,	Garland,	McMillan,	Wadleigh,
Chandler,	Grover,	Matthews,	Whyte,
Coke,	Hamlin,	Maxey,	Windom.
Conkling,	Hill,	Mitchell,	

NAYS—23.

Bailey,	Davis of W. Va.,	Kernan,	Saulsbury,
Bayard,	Dennis,	Lamar,	Shields,
Beck,	Gordon,	McCreery,	Spencer,
Booth,	Harris,	McPherson,	Wallace,
Butler,	Hereford,	Merrimon,	Withers.
Cockrell,	Jones of Florida,	Patterson,	

ABSENT—14.

Bruce,	Ingalls,	Plumb,	Teller,
Chaffee,	Johnston,	Randolph,	Thurman.
Conover,	Oglesby,	Ransom,	
Eustis,	Paddock,	Sharon,	

So the amendment was agreed to.

Mr. JONES, of Florida. I now move in line 80 to strike out all after the word "companies" down to the word "statutes" in line 84, in the following words:

Which may have telegraph lines; and which shall file their written acceptance of the restrictions and obligations imposed on telegraph companies by title 65 of the Revised Statutes, for the Government and for the general public, at rates to be fixed by the Government according to the provisions of title 65 of the Revised Statutes.

And in lieu thereof to insert:

Which are hereby authorized to construct, maintain, and operate telegraph lines and to use the lines or wires they now have for the general public and the Government, subject to all the provisions of title 65 of the Revised Statutes.

So as to read:

And telegrams are authorized to be transmitted by railroad companies, which are hereby authorized to construct, maintain, and operate telegraph lines, and to use the lines or wires they now have for the general public and the Government, subject to all the provisions of title 65 of the Revised Statutes.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Florida.

Mr. JONES, of Florida. I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. TELLER, (when his name was called.) On this subject I am paired with my colleague, [Mr. CHAFFEE.] If he were present, I should vote "nay."

The roll-call having been concluded, the result was announced—yeas 26, nays 35; as follows:

YEAS—26.

Beck,	Grover,	Matthews,	Spencer,
Booth,	Hamlin,	Maxey,	Thurman,
Butler,	Harris,	McPherson,	Wallace,
Cockrell,	Hereford,	Merrimon,	Whyte,
Coke,	Jones of Florida,	Morgan,	Withers.
Davis of W. Va.,	Kernan,	Patterson,	
Gordon,	Kirkwood,	Shields,	

NAYS—35.

Allison,	Chandler,	Garland,	Morrill,
Anthony,	Conkling,	Hoar,	Ransom,
Bailey,	Conover,	Howe,	Rollins,
Barnum,	Davis of Illinois,	Jones of Nevada,	Sargent,
Bayard,	Dawes,	Kellogg,	Saulsbury,
Blaine,	Dennis,	Lamar,	Saunders,
Burnside,	Dorsey,	McCreery,	Voorhees,
Cameron of Pa.,	Eaton,	McDonald,	Wadleigh.
Cameron of Wis.,	Ferry,	Mitchell,	

ABSENT—15.

Bruce,	Hill,	Oglesby,	Sharon,
Chaffee,	Ingalls,	Paddock,	Teller,
Edmunds,	Johnston,	Plumb,	Windom.
Eustis,	McMillan,	Randolph,	

So the amendment was rejected.

Mr. BECK. I propose to amend this part of the bill, in line 84, by adding the words which I send to the Secretary. They were read and ordered to be printed.

The PRESIDING OFFICER. The Secretary will report the amendment.

The SECRETARY. On page 4, line 84, after the words "Revised Statutes," it is proposed to insert:

And so much of any of the sections of title 65 of the Revised Statutes as authorizes the United States to acquire title to, or obtain possession of, telegraph lines within the United States, be, and the same is hereby, repealed, and all contracts with existing companies giving the United States such authority are hereby declared null and void.

Mr. BECK. Mr. President, I desire to say a word in regard to the amendment I have just offered. The amendment adopted on the motion of the Senator from Wisconsin [Mr. HOWE] allows the United States to purchase all the telegraph lines in the United States at appraisement, and requires them to accept the terms and conditions of the act of 1866. When the amendment of the Senator from Florida was voted upon a few minutes ago, the Senate refused to strike out that portion of the law which authorizes the Government of the United States to fix the rates for private commercial telegrams carried over railroad lines, thus maintaining an unjust and improper distinction in favor of already existing corporations by whatever name known, as they now have the right to transmit all telegrams and charge private parties whatever they please for such telegrams as they see fit to carry, while all the railroad lines are to be forced by this bill to carry them at such rates as the Government may see fit to impose upon them. How the Senate, if they desire to do equal justice to all those lines and have fair competition between them and expect railroad lines to compete with the Western Union and the other great lines of the country, can vote to require the railroad lines to carry all commercial messages at such rates as the Government may see fit to impose, and at the same time allow all other corporations to charge private individuals whatever they please, and call that competition, is for each individual Senator to determine for himself.

It seems to me you give to the lines outside of the railroads an immense advantage over those that are part of and controlled by the railroad lines, while you require all the railroad companies to give up their lines if they use them for commercial purposes to the Government of the United States at the valuation which may be fixed by arbitrators under the law of 1866, which by the amendment proposed they are required to do, virtually requiring the railroads to surrender their most valuable property to the Government of the United States, because all railroads are compelled to run now by telegraph lines alongside of them. No railroad in this age can run without a telegraph, and if they undertake to compete with the already existing companies they must by the amendment proposed by the Senator from Wisconsin give the Government of the United States the right to buy all their telegraph lines at any prices arbitrators may fix, and the moment the Government of the United States gets possession of a telegraph line along the line of railroad it virtually controls the railroad and all its business, whereas if it takes possession of a road that has no other business except the carrying of messages, no damage is done to that company except depriving it of its property at the price agreed upon. You deprive the railroad of its telegraph lines and let the Government take possession of it, and the Government is virtually in possession of the railroad as well as the telegraph line; and I am very much opposed to the Government of the United States running railroads or working telegraph lines, augmenting the already hundred thousand executive employes we now have by further adding forty or fifty thousand telegraph operators—the most intelligent young men in the country—with power over all the commercial business and private dispatches of the people, embarrassing the railroad lines by taking possession of their telegraph lines so as to use them for their own purposes in such manner and at such times as they see fit. The Government being thus virtually in possession of all the railroads of the country is drifting into centralization and consolidation by this meas-

ure more rapidly than by any other movement made since I have been in the Congress of the United States.

I do not believe that this Government is or can be conducted as a paternal Government. I do not believe it is a Government that ought to control railroads or telegraph lines, or any other of the great industries of the people. Therefore it was that I moved to amend this clause by repealing the act of 1866, both as to existing companies and railroad companies, and forever prohibit the United States, under any circumstances, from taking possession either of the telegraphs or the railroads of the country, and to annul all such contracts as any previous Administration may have required telegraph companies to submit to as a condition-precedent to their having the privileges given them in the Territories of the United States or anywhere else.

That, Mr. President, is the object of the amendment I have moved; when that is adopted and made part of this bill the greatest difficulty that I see is got rid of, because if there is any great corporation more dangerous than any other it is the Government. Great corporations everywhere are, I conceive, more or less dangerous to liberty, but there is no other corporation half as dangerous to the liberties of this people as centralized and consolidated power in the hands of the great corporation known as the Government of the United States, and nothing can be more disastrous to a people than having their business conducted from an administrative stand-point where the President, by and with the advice and consent of the Senate, or without its advice and consent, may employ to run telegraph lines forty or fifty thousand men who will take control of all the business of the country, looking to the Administration alone for their continuance in power and ready to do its bidding and communicate or withhold such information as suits its purposes.

As I said before, I would not have inserted this telegraph provision in an appropriation bill, but being in and according to the rules of the House properly in, and the Supreme Court of the United States having decided that the power exists to authorize and empower the railroads to transmit commercial messages, I am in favor of having competing lines of telegraph by the railroads against other corporations and against each other, so as to divide up the business of the country and to give the people a fair chance to have their telegraphic business done at reasonable rates; but I do not want the Government of the United States to intervene or to be either on one side or the other of that controversy, and in order to increase political or party power have the right to take away either their telegraph lines or any other part of their property. Especially I do not desire the Government of the United States to have the power given to it to fix the rates which one side shall charge when they are carrying commercial messages in competition with other companies and not have the power to fix the commercial rates the other companies shall charge when they are competing with the railroad companies.

That, as I understand it, is the result of the action now taken by the Senate, and therefore I think it is proper to remove all probability, all possibility, of any right by contract on the part of the Government of the United States for us to take possession of these telegraph lines by an appraisement or by any other way. As I said, I would not have introduced this clause in the bill, perhaps I would not have decided as the Supreme Court did in the Florida case. That is not the question. We now know what the decision is. I desire to take the benefit of whatever is good in it by having competition if possible in the transmission of telegrams. If I had been on the commission that made the present President of the United States, I would not have decided the way they did; but when it is once done, I recognize his right to exercise all the power and all the authority that that commission gave to him as President. So when the Supreme Court of the United States decided what the law on this subject is, I am willing to admit that the construction given will prevail and that it is the law of the land, and I insist that the rights acquired under it or the rights based upon it shall be exercised for the benefit of the people, and that free, full, and fair competition shall be had among the people, and the United States shall be hands off.

That, Mr. President, is the meaning of my amendment. As I said before, I am more afraid of the Government than I am of all the other corporations. I anxiously desire to prevent the Government from taking possession of any of the lines, either those lines that now exist or those that may be authorized to carry commercial messages hereafter, and let each compete with the other for business on terms of perfect equality.

Mr. CONKLING. Mr. President, during the three minutes, if there be three minutes, before debate is to cease, I wish to imitate the Senator from Kentucky in striving for the public interest, and, therefore, I venture to say a word suggested to me by a line and a half of this bill on page 13, where I find:

For manufacture of arms at national armories, \$250,000.

It may be thought that this is not strictly germane to the great enterprise of distributing intelligence over the country, but nevertheless under the rules of the Senate, as I mean to observe the unanimous understanding that debate shall cease, I shall have no time except this to ask my honorable friend from Illinois [Mr. DAVIS] who I see rising, and also the members of the Committee on Appropriations to listen kindly to an amendment, when I offer it, to the words I have already read. I beg my friend will not interrupt me now, as I have but a minute.

Mr. DAVIS, of Illinois. I hope the Senator from New York will not take the whole time, because I know what his amendment is, and I am opposed to it, and should like a chance to reply.

Mr. CONKLING. What amendment?

Mr. DAVIS, of Illinois. The Senator's amendment relating to the provision about arms.

Mr. CONKLING. Ah, the honorable Senator from Illinois knows—

The words I mean to speak.
Ere from my opening lips they break,—

I have never shown this amendment to anybody, and I cannot suppose that my honorable friend understands it. However, I intend to move such an amendment as will devote some part of this money to the procurement of arms, in point of fact the best of such magazine-guns as by actual trial and experiment have turned out or shall turn out to be the most efficient, and as shall prevent the whole of this money being expended in the production of guns which may turn out to be either obsolete or obviously inferior to another and known arm. I will not read the amendment now. It is a different one evidently from that to which the honorable Senator from Illinois refers.

Mr. DAVIS, of Illinois. It is the very same thing.

Mr. CONKLING. Because I cannot suppose, and I decline to allow the Senator to admit, that he wishes to appropriate money to purchase an inferior implement when we might be allowed with that money to procure something superior and useful.

Mr. DAVIS, of Illinois. Mr. President—

Mr. CONKLING. The honorable Senator knows I am the best-natured man in the world, but I do not want him to take up the few seconds that remain to me when he has already interrupted me by objections to an amendment which he knows nothing about.

Mr. DAVIS, of Illinois. I knew the Senator was going to offer it.

Mr. CONKLING. How can the Senator have known anything about an amendment which I had locked up in my desk, and which I never disclosed to him? The honorable Senator evinces a bigotry of opposition which I really hope he will not pursue.

Mr. DAVIS, of Illinois. Two Senators told me it would be offered, and no doubt it would be offered by the Senator from New York.

Mr. CONKLING. That surprises me, Mr. President.

The PRESIDING OFFICER. The hour has arrived at which the Senate by unanimous consent has agreed to take the vote on the bill and pending amendments, without further debate.

Mr. CONKLING. The Senator from Illinois has exhausted my time.

Mr. DAVIS, of Illinois. If the Senator had given me two minutes I could have shown sufficiently that there is no necessity for his amendment.

Mr. CONKLING. So could I have demonstrated its necessity if I had had a chance, but the Senator has worn out my time, and I cannot tell the truth about it.

The PRESIDING OFFICER. The question is upon the amendment of the Senator from Kentucky, [Mr. BECK,] which will be reported.

Mr. JONES, of Florida. I do not propose to debate this question or say a word—

The PRESIDING OFFICER. Debate is not in order.

Mr. JONES, of Florida. I ask the Senator from Kentucky if his amendment extends to the entire provisions of the act of 1866, or only to that portion which provides that no railroads or telegraph lines shall be run by the Government?

Mr. BECK. If it is read again, the Senator will observe it merely repeats the latter part.

Mr. CONKLING. Are these interesting dialogues in the nature of debate?

The PRESIDING OFFICER. In the nature of inquiries, the Chair thinks.

Mr. DAVIS, of Illinois. Let us have the amendment reported.

The PRESIDING OFFICER. The Secretary will read the amendment.

The SECRETARY. It is proposed, after the words "Revised Statutes," in line 84, to insert:

And so much of any of the sections of title 65 of the Revised Statutes as authorize the United States to acquire title to, or obtain possession of, telegraph lines within the United States, be, and the same is hereby, repealed, and all contracts with existing companies giving the United States such authority are hereby declared null and void.

Mr. EDMUNDS. The bill does not refer to any particular section of the Revised Statutes, but only to the title, and so as to effectuate the object of the Senator from Kentucky the word "other" should be stricken out of his amendment.

The PRESIDING OFFICER. Does the Senator from Kentucky accept the proposed amendment of the Senator from Vermont?

Mr. BECK. I do not think the word "other" occurs in the amendment. If it does, I have no objection to striking it out.

The PRESIDING OFFICER. The Secretary will report the amendment of the Senator from Kentucky again.

The Secretary read as follows:

And so much of any of the sections of title 65 of the Revised Statutes—

Mr. EDMUNDS. That is enough. I withdraw the amendment I offered, because I see that I misunderstood the Secretary. It is right as it now stands.

The PRESIDING OFFICER. The proposition of the Senator from Vermont is withdrawn.

Mr. THURMAN. The amendment seems to consist of two parts.

I ask the Chair if they are not divisible? The latter clause seems to declare contracts void. I do not know whether any such contracts have been entered into, but if they have been, I do not know why we should declare them void. I ask if the amendment is not divisible?

The PRESIDING OFFICER. It is.

Mr. THURMAN. Then I ask for a vote on the first paragraph.

The PRESIDING OFFICER. The Senator from Ohio asks for a division of the question. The question is first upon the first branch of the amendment proposed by the Senator from Kentucky. The Secretary will report the first branch of the amendment before the vote of the Senate is taken.

The Secretary read as follows:

And so much of any of the sections of title 65 of the Revised Statutes as authorize the United States to acquire title to, or obtain possession of, telegraph lines within the United States, be, and the same is hereby, repealed.

The PRESIDING OFFICER. The question is on the adoption of this part of the amendment.

Mr. BECK. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 33, nays 35; as follows:

Yeas—33.			
Bailey,	Davis of W. Va.,	Kernan,	Saulsbury,
Barnum,	Dennis,	Lamar,	Thurman,
Bayard,	Eaton,	McCreery,	Voorhees,
Beck,	Eustis,	McDonald,	Wallace,
Booth,	Garland,	McPherson,	Whyte,
Butler,	Gordon,	Maxey,	Withers.
Cockrell,	Grover,	Merrimon,	
Coke,	Harris,	Morgan,	
Davis of Illinois,	Hereford,	Ransom,	

Nays—35.			
Allison,	Conover,	Kellogg,	Rollins,
Anthony,	Dawes,	Kirkwood,	Sargent,
Blaine,	Dorsey,	McMillan,	Saunders,
Bruce,	Edmunds,	Matthews,	Shields,
Burnside,	Ferry,	Mitchell,	Spencer,
Cameron of Pa.,	Hamlin,	Morrill,	Teller,
Cameron of Wis.,	Hoar,	Oglesby,	Wadleigh,
Chandler,	Ingalls,	Paddock,	Windom.
Conkling,	Jones of Nevada,	Patterson,	

Absent—8.			
Chaffee,	Howe,	Jones of Florida,	Randolph,
Hill,	Johnston,	Plumb,	Sharon.

So the amendment was rejected.

Mr. BECK. I withdraw the other portion of the amendment.

The PRESIDING OFFICER. The Senator from Kentucky proposes to withdraw the latter portion of his amendment. Is unanimous consent granted? The Chair hears no objection, and the latter portion of the amendment is withdrawn.

Mr. CONKLING. I offer an amendment to occur at the end of the amendment carried on the motion of the Senator from Wisconsin, [Mr. HOWE:]

Provided, however, Every such railroad company chartered or authorized by a State shall have first obtained from the State by which it was created the right so to do.

So that it will read as the Secretary will now be able to indicate. The PRESIDING OFFICER. The amendment proposed by the Senator from New York will be reported.

The SECRETARY. It is proposed to add at the end of the amendment last adopted:

Provided, however, Every such railroad company chartered or authorized by a State shall have first obtained from the State by which it was created the right so to do.

So as to make the clause read:

And which shall file their written acceptance of their restrictions and obligations imposed on telegraph companies by title 65 of the Revised Statutes: *Provided, however,* Every such railroad company chartered or authorized by a State shall have first obtained by the State by which it was created the right so to do.

The PRESIDING OFFICER. The question is on the adoption of the amendment offered by the Senator from New York.

Mr. CONKLING. Let us have the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. TELLER, (when his name was called.) On this subject I am paired with my colleague, [Mr. CHAFFEE.] If he were present, I should vote "yea."

The roll-call having been concluded, the result was announced—yeas 22, nays 39; as follows:

Yeas—22.			
Barnum,	Chandler,	Howe,	Sargent,
Booth,	Conkling,	Kellogg,	Saulsbury,
Bruce,	Conover,	McDonald,	Shields,
Burnside,	Davis of Illinois,	Morrill,	Whyte.
Cameron of Pa.,	Eaton,	Patterson,	
Cameron of Wis.,	Hoar,	Plumb,	

Nays—39.			
Anthony,	Ferry,	Lamar,	Rollins,
Beck,	Garland,	McCreery,	Saunders,
Blaine,	Gordon,	McMillan,	Spencer,
Butler,	Grover,	McPherson,	Thurman,
Cockrell,	Hamlin,	Matthews,	Voorhees,
Coke,	Harris,	Maxey,	Wadleigh,
Davis of W. Va.,	Hereford,	Merrimon,	Wallace,
Dawes,	Jones of Florida,	Mitchell,	Windom,
Dennis,	Kernan,	Morgan,	Withers.
Edmunds,	Kirkwood,	Ransom,	

ABSENT—15.

Allison,	Dorsey,	Johnston,	Randolph,
Bailey,	Eustis,	Jones of Nevada,	Sharon,
Bayard,	Hill,	Oglesby,	Teller.
Chaffee,	Ingalls,	Paddock,	

So the amendment was rejected.

Mr. EATON. In line 79, after the word "telegrams," I move to strike out:

And telegrams are authorized to be transmitted by railroad companies, which may have telegraph lines, and which shall file their written acceptance of their restrictions and obligations imposed on telegraph companies by title 65 of the Revised Statutes, for the Government and for the general public, at rates to be fixed by the Government, according to the provisions of title 65 of the Revised Statutes.

Mr. EDMUNDS. I move to amend the paragraph proposed to be stricken out, which I believe is in order.

The VICE-PRESIDENT. That will be first in order.

Mr. EDMUNDS. I move to amend that paragraph by adding after the word "Statutes," in line 84, the words:

And the Postmaster-General is hereby authorized and directed to report to the next session of Congress upon the practicability and economy of establishing a system of postal telegraphing.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Vermont [Mr. EDMUNDS] to the amendment of the Senator from Connecticut, [Mr. EATON.]

Mr. EDMUNDS. Let us have the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. TELLER, (when his name was called.) On this subject I am paired with my colleague, [Mr. CHAFFEE.] If he were present, I should vote "nay."

The roll-call having been concluded, the result was announced—yeas 20, nays 46; as follows:

Yeas—20.			
Anthony,	Cameron of Wis.,	Kirkwood,	Paddock,
Blaine,	Chandler,	McMillan,	Patterson,
Booth,	Dawes,	Mitchell,	Sargent,
Burnside,	Edmunds,	Morrill,	Shields,
Cameron of Penn.,	Hamlin,	Oglesby,	Spencer.

Nays—46.			
Allison,	Davis of West Va.,	Ingalls,	Plumb,
Bailey,	Dennis,	Jones of Florida,	Rollins,
Barnum,	Dorsey,	Kellogg,	Saulsbury,
Bayard,	Eaton,	Kernan,	Saunders,
Beck,	Eustis,	Lamar,	Thurman,
Bruce,	Garland,	McCreery,	Voorhees,
Butler,	Gordon,	McDonald,	Wadleigh,
Cockrell,	Grover,	McPherson,	Wallace,
Coke,	Harris,	Matthews,	Whyte,
Conkling,	Hereford,	Maxey,	Withers.
Conover,	Hill,	Merrimon,	
Davis of Illinois,	Howe,	Morgan,	

Absent—10.			
Chaffee,	Johnston,	Ransom,	Windom.
Ferry,	Jones of Nevada,	Sharon,	
Hoar,	Randolph,	Teller,	

So the amendment was rejected.

The VICE-PRESIDENT. The question recurs on the amendment of the Senator from Connecticut, [Mr. EATON,] which will be reported.

The Secretary read the proposed amendment.

Mr. McMILLAN. May I inquire of the Senator from Connecticut whether this amendment proposes to strike out all the legislation in regard to the telegraph companies incorporated in this Army appropriation bill?

Mr. EATON. That is my intention.

Mr. JONES, of Florida. I ask for the yeas and nays upon the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 28, nays 31; as follows:

Yeas—28.			
Allison,	Cameron of Wis.,	Hoar,	Morrill,
Anthony,	Chandler,	Howe,	Rollins,
Barnum,	Conkling,	Ingalls,	Sargent,
Bayard,	Conover,	Kellogg,	Saulsbury,
Blaine,	Eaton,	McDonald,	Saunders,
Burnside,	Ferry,	McMillan,	Wadleigh,
Cameron of Pa.,	Hill,	Mitchell,	Windom.

Nays—31.			
Beck,	Gordon,	McPherson,	Shields,
Booth,	Grover,	Matthews,	Spencer,
Butler,	Harris,	Maxey,	Thurman,
Cockrell,	Hereford,	Merrimon,	Voorhees,
Coke,	Jones of Florida,	Morgan,	Wallace,
Davis of W. Va.,	Kernan,	Oglesby,	Whyte,
Dawes,	Kirkwood,	Paddock,	Withers.
Garland,	McCreery,	Plumb,	

Absent—17.			
Bailey,	Dorsey,	Jones of Nevada,	Sharon,
Bruce,	Edmunds,	Lamar,	Teller.
Chaffee,	Eustis,	Patterson,	
Davis of Illinois,	Hamlin,	Randolph,	
Dennis,	Johnston,	Ransom,	

So the amendment was rejected.

Mr. PADDOCK. By the consent of the Committee on Appropriations, to whom was referred the amendment which I offer, I present the following, to be inserted after line 212:

For construction of a military post near the Niobrara River, in the State of

Nebraska, at a point to be selected by the General of the Army, with the approval of the Secretary of War, \$50,000, or so much thereof as may be necessary.

Mr. ALLISON. I move to amend the amendment of the Senator from Nebraska by saying "in Northern Nebraska or Dakota," so as to confine the selection.

Mr. PADDOCK. I accept the amendment.

The VICE-PRESIDENT. The question is on the amendment as modified.

Mr. BLAINE. The time for debate has gone by; but there are documents here from the War Department and General Sheridan making a very strong case.

The amendment was agreed to.

Mr. CONKLING. Mr. President, I move to amend on page 13 by adding at the end of line 288 the following:

Provided, One hundred thousand dollars shall be expended in procuring such magazine arms as the Secretary of War may select for competitive trial in the hands of troops in the field before any arm shall be selected for adoption: Provided further, Said arms so selected shall be procured during the next year.

So that the clause will read:

For manufacture of arms at national armories, \$250,000: *Provided, One hundred thousand dollars shall be expended in procuring such magazine arms as the Secretary of War may select for competitive trial in the hands of the troops in the field before any arms shall be selected for adoption: Provided further, Said arms so selected shall be procured during the next year.*

Mr. DAVIS, of Illinois. That diverts \$100,000 from the national armories.

Mr. CONKLING. Debate is not in order. If it was, I could demonstrate the propriety of the amendment. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. DAVIS, of Illinois. There ought to be debate on that proposition.

The question being taken by yeas and nays, resulted—yeas 12, nays 44; as follows:

YEAS—12.

Bayard,	Gordon,	Kernan,	Spencer,
Blaine,	Hamlin,	McPherson,	Windom,
Conkling,	Kellogg,	Plumb,	Withers.

NAYS—44.

Allison,	Davis of Illinois,	Ingalls,	Morrill,
Anthony,	Davis of W. Va.,	Jones of Nevada,	Oglesby,
Barnum,	Dawes,	Kirkwood,	Patterson,
Beck,	Dennis,	McCreery,	Rollins,
Booth,	Eaton,	McDonald,	Sargent,
Burnside,	Ferry,	McMillan,	Saunders,
Butler,	Garland,	Matthews,	Teller,
Cameron of Pa.,	Grover,	Maxey,	Thurman,
Cameron of Wis.,	Harris,	Merrimon,	Voorhees,
Cockrell,	Hereford,	Mitchell,	Wadleigh,
Coke,	Hoar,	Morgan,	Whyte.

ABSENT—20.

Bailey,	Dorsey,	Johnston,	Ransom,
Bruce,	Edmunds,	Jones of Florida,	Saulsbury,
Chaffee,	Eustis,	Lamar,	Sharon,
Chandler,	Hill,	Paddock,	Shields,
Conover,	Howe,	Randolph,	Wallace.

So the amendment was rejected.

Mr. COCKRELL. On Saturday I submitted an amendment and had it referred to the Committee on Appropriations. It is on page 5, after line 98, to insert:

And that, out of any money appropriated for the support of the Army, there shall be allowed and paid to the examiner of State claims in the office of the Secretary of War the pay and allowances of a major of cavalry for the time the Secretary may certify the officer has been on duty in the office as examiner for the War Department of accounts and claims against the United States, deducting whatever pay and allowances said officer has received during that time.

Mr. ALLISON. Is that in order? It changes an existing law.

Mr. COCKRELL. I desire to say to the Senator from Iowa that that was in the original bill substantially as it came from the House. It was on page 14, and was stricken out with the other provisions relating to the organization of the Army. I desire to transpose it and place it here.

Mr. ALLISON. I make the point of order.

Mr. COCKRELL. It is offered on the recommendation of the Secretary of War.

The VICE-PRESIDENT. The Chair thinks this is in the nature of new legislation. However, he will submit the question to the Senate, if desired.

Mr. COCKRELL. I state the fact that it was in the bill as it came from the House.

Mr. BLAINE. What is the amendment?

Mr. COCKRELL. It is the amendment in regard to the examiner of State claims in the office of the Secretary of War.

Mr. ALLISON. Raising his pay to that of major.

Mr. COCKRELL. It was in the bill as it came from the House substantially.

Mr. BLAINE. I do not know that there is anything objectionable in it; I believe it is a matter of justice. Of course it goes in by unanimous consent. I shall not object.

The VICE-PRESIDENT. The Senator from Iowa having made the point of order, the Chair thinks this is new legislation. He will, however, submit it to the Senate. Shall this amendment be received under the twenty-ninth rule of the Senate?

Mr. COCKRELL. Does the Chair decide that it is new legislation when it was in the bill as it came from the House?

The VICE-PRESIDENT. The Chair does not find that provision. Will the Senator point it out?

Mr. COCKRELL. If the Chair will be good enough to read on page 14, line 9, he will see almost the same provision:

And the examiner of State claims in the office of the Secretary of War shall have, while on such duty, the pay, emoluments, and allowances of mounted officers one grade higher than that held by him in his regiment or corps.

This simply fixes it at the grade of a major. That is the only difference between the two.

The VICE-PRESIDENT. The Chair does not so understand.

Mr. BLAINE. The Senator states it quite correctly; it was embodied in the bill that came from the House. The Senate struck it out in common with all the sections of which it formed a part as to the general reorganization of the Army. Whether now moved anew from the floor it would escape the point of new legislation, is for the Chair to decide.

The VICE-PRESIDENT. The Chair will submit the point to the Senate.

Mr. BLAINE. It is a little different point of course from new legislation entirely.

The VICE-PRESIDENT. Shall this amendment be received under the twenty-ninth rule of the Senate?

The question being put, there were on a division—yeas 21, nays 14; no quorum voting.

Mr. ALLISON. I call for the yeas and nays.

Mr. ANTHONY. I think if we take the vote again there will be a quorum voting. It is useless to waste time in calling for the yeas and nays.

Mr. DAVIS, of West Virginia. I came in after the question had been submitted. Will the Chair state what it is?

The VICE-PRESIDENT. The amendment will be again reported.

The Secretary read the amendment proposed by Mr. COCKRELL.

Mr. BLAINE. I suppose I shall not violate the inhibition of the debate if I state just how the question stands. In the third section of the bill these words were inserted by the House; I read the conclusion on the bottom of the thirteenth page, commencing:

And each such aid-de-camp other than colonel, and the examiner of State claims in the office of the Secretary of War, shall have, while on such duty, the pay, emoluments, and allowances of mounted officers one grade higher than that held by him in his regiment or corps.

This was excluded by the vote of the Senate refusing to go into the question of reorganizing the Army. The Senator from Missouri now moves in regard to the examiner of State claims the same provision, confining it to him.

Mr. ALLISON. Except, if I may be permitted to add, that it authorizes this payment at the rate paid to an officer with the rank of major for whatever time this officer has been in service in the War Department. We know nothing about his rank or the time of service. I do not know whether he is a captain or lieutenant now.

Mr. COCKRELL. Here is a letter of the Secretary of War recommending this in the very strongest terms, showing the peculiar propriety of the provision.

Mr. CONKLING. I do not think this is right when no debate is in order.

Mr. COCKRELL. The place was filled by a colonel previous to the time this gentleman was placed in charge of the business.

The VICE-PRESIDENT. The question is on admitting as an amendment, under the twenty-ninth rule, the matter just read. The Chair submits the question to the Senate.

The question being again put, there were on a division—yeas 23, nays 24.

The VICE-PRESIDENT. The amendment is not pending.

Mr. PLUMB. I offer, by direction of the Committee on Military Affairs, an amendment, to come in after line 296. It is in accordance with the recommendation of the Secretary of War to the Committee on Military Affairs. On page 13, after line 296, I move to insert:

For the erection of the necessary buildings for a company garrison on the Pagosa Springs military reservation, in the State of Colorado, \$50,000.

Mr. DAVIS, of West Virginia. Is that in order? Is it from a committee?

The VICE-PRESIDENT. It is, as the Chair is informed.

Mr. DAVIS, of West Virginia. What committee does it come from?

Mr. PLUMB. The Committee on Military Affairs. It is accompanied by the recommendation of the Secretary of War, General Sherman, General Sheridan, and General Pope.

The VICE-PRESIDENT. The question is on the amendment.

Mr. DAVIS, of West Virginia. Has it been referred to the Committee on Appropriations?

Mr. PLUMB. It has not been?

Mr. DAVIS, of West Virginia. Then it is not in order.

The VICE-PRESIDENT. The point of order is well taken.

Mr. PLUMB. I did not understand the Senator from West Virginia to make a point of order.

Mr. DAVIS, of West Virginia. I did.

Mr. GORDON. I offer the following amendment as an additional section:

SEC. —. That brevets that may have been conferred on officers of volunteers, who are now officers of the regular Army, shall have the same force and effect, and confer the same rights and privileges, as if originally conferred in the regular service.

Mr. BLAINE. I hope that will not be adopted. There is no time

to debate it. It gives captains the right to appear in major-general's uniform.

Mr. ALLISON. Is the amendment in order?

Mr. GORDON. I ask permission to reply in one sentence. I can see no reason why officers who won their brevets in battle, because they were volunteers, should be deprived of the privileges which the rank they won confers.

Mr. ALLISON. I raise a point of order.

The VICE-PRESIDENT. What is the point of order?

Mr. ALLISON. That this is legislation.

The VICE-PRESIDENT. The Senator from Iowa makes the point of order that this amendment embraces new legislation, which the Chair thinks is well taken. Does the Senator from Georgia desire the point submitted to the Senate?

Mr. BLAINE. I think my friend from Georgia will see that it ought not to be adopted without debate. It is a subject that has been up in Congress at different times for the last fifteen years.

Mr. GORDON. Does the Chair rule that the amendment is out of order?

The VICE-PRESIDENT. The Chair does.

Mr. GORDON. I will not appeal.

The VICE-PRESIDENT. The Chair will submit the question to the Senate, if the Senator desires.

Mr. PLUMB. I offer the following amendment from the Committee on Military Affairs. Insert after line 296, on page 13:

For the completion of the military road from Alamosa, Colorado, via Pagosa Springs military post, to Parrott City, \$15,000.

Mr. KERNAN. How is that in order? I do not know anything about it. That is my trouble.

The VICE-PRESIDENT. What point of order does the Senator make?

Mr. KERNAN. That it does not come from any committee, and is an increase of appropriations.

The VICE-PRESIDENT. The Chair knows nothing of its history in committee. Has this amendment been referred to the Committee on Appropriations?

Mr. PLUMB. It has not been.

The VICE-PRESIDENT. It is not, then, in order. If there are no further amendments the bill will be reported to the Senate as amended.

Mr. COCKRELL. Now, in regard to concurring in the amendments made as in Committee of the Whole, I desire to reserve one or two amendments to be acted on separately at the proper time.

Mr. PADDOCK. I wish to offer an amendment, on page 11, line 247. I offer the following by assent of the Committee on Appropriations:

To re-establish and improve a military wagon-road from Sidney, via Forts Robinson and Sheridan, to the new Red Cloud and Spotted Tail agencies in Nebraska, the same to be located by the General of the Army, with the approval of the Secretary of War, \$10,000.

Mr. EATON. Is not that subject to the same objection?

Mr. PADDOCK. That is not obnoxious to the same objection. It was referred to the Committee on Appropriations and has been unanimously consented to by the members.

Mr. EDMUNDS. The fact that it was referred does not make it in order.

The VICE-PRESIDENT. The Chair thinks that this is new legislation. Does the Senator desire the question submitted to the Senate?

Mr. PADDOCK. I do not quite understand the rule under which this objection is made.

The VICE-PRESIDENT. The objection is made on the ground that the amendment embraces general legislation. The fact that it has been referred to the Committee on Appropriations would not obviate that objection.

Mr. BLAINE. That comes very strongly recommended, but I have no right to debate it.

Mr. PADDOCK. This proposition is approved by the Lieutenant-General and Secretary of War, and it is very proper that it should be done.

Mr. EDMUNDS. That does not make it in order.

The VICE-PRESIDENT. Are there further amendments in committee?

The bill was reported to the Senate as amended.

The VICE-PRESIDENT. Is a separate vote demanded on any of the amendments made in Committee of the Whole?

Mr. BECK. I ask a separate vote on the amendment striking out section 51 of the House bill.

Mr. EDMUNDS. May I ask if section 51 was stricken out in committee? I wish to be sure of that.

The VICE-PRESIDENT. The Chair is so informed. It was stricken out.

Mr. ALLISON. I desire to give notice that I will ask a separate vote on section 53. That section was stricken out by inadvertence in Committee of the Whole.

The VICE-PRESIDENT. The Chair will recognize all Senators in order. But one vote can be taken at a time. The question now is on the motion of the Senator from Kentucky, [Mr. BECK.] As many as are of the opinion that section 51 as it came from the House of Representatives be stricken from the bill will say "ay."

Mr. EDMUNDS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. INGALLS. Let section 51 be read.

The VICE-PRESIDENT. The section which was stricken from the House bill by the Senate as in Committee of the Whole will now be reported.

Mr. DAVIS, of West Virginia. I wish to inquire whether any other question than the one presented by the Senator from Kentucky has been reserved.

The VICE-PRESIDENT. Not yet. The Chair has received notice in relation to other amendments.

Mr. DAVIS, of West Virginia. But there was so much noise I could not hear. I wish to know whether there were other reservations.

The VICE-PRESIDENT. There were various notices, the Chair thinks, which he does not now recall.

Mr. EATON. Is it necessary to give notice that I shall ask a separate vote on any amendment?

The VICE-PRESIDENT. It is not. The Chair will now state the question as he understood it in the turmoil. The Chair understood that the Committee of the Whole struck from the bill as it came from the House section 51, and the question now is, on the motion of the Senator from Kentucky, whether the Senate will concur in the action of the Committee of the Whole. As many as will concur will answer in the affirmative.

Mr. EDMUNDS. I ask that it be reported so that we shall all understand it.

The Secretary read section 51, as follows:

SEC. 51. That section 2062 of the Revised Statutes be amended so as to read as follows:

"No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States."

And that section 5528 of the Revised Statutes be amended so as to read as follows: "Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than \$5,000, and suffer imprisonment at hard labor not less than three months nor more than five years."

Mr. THURMAN. The question is on concurring—

The VICE-PRESIDENT. On concurring in the action of the Committee of the Whole.

Mr. THURMAN. Striking out? Then those opposed to striking out vote nay.

Mr. EDMUNDS. That is the way it goes.

The Secretary proceeded to call the roll.

Mr. EUSTIS, (when his name was called.) On this question I am paired with the Senator from Colorado, [Mr. CHAFFEE.] If he were here, I should vote "nay."

Mr. SARGENT, (when his name was called.) On all political questions I am paired with the Senator from Virginia, [Mr. JOHNSTON.] I suppose that embraces this; otherwise I should vote "yea."

Mr. SPENCER, (when his name was called.) On this question I am paired with the Senator from New Jersey, [Mr. RANDOLPH.] If he were here, he would vote "nay" and I should vote "yea."

The roll-call having been concluded, the result was announced—yeas 34, nays 33; as follows:

YEAS—34.

Allison,	Conkling,	Jones of Nevada,	Patterson,
Anthony,	Conover,	Kellogg,	Plumb,
Blaine,	Dawes,	Kirkwood,	Rollins,
Booth,	Dorsey,	McMillan,	Saunders,
Bruce,	Edmunds,	Matthews,	Teller,
Burnside,	Ferry,	Mitchell,	Wadleigh,
Cameron of Pa.,	Hamlin,	Morrill,	Windom.
Cameron of Wis.,	Hoar,	Oglesby,	
Chandler,	Ingalls,	Paddock,	

NAYS—33.

Bailey,	Eaton,	Lamar,	Shields,
Barnum,	Garland,	McCreery,	Thurman,
Bayard,	Gordon,	McDonald,	Voorhees,
Beck,	Grover,	McPherson,	Wallace,
Butler,	Harris,	Maxey,	Whyte,
Cockrell,	Hereford,	Merrimon,	Withers.
Coke,	Hill,	Morgan,	
Davis of W. Va.,	Jones of Florida,	Ransom,	
Dennis,	Kernan,	Saulsbury,	

ABSENT—9.

Chaffee,	Howe,	Randolph,	Sharon,
Davis of Illinois,	Johnston,	Sargent,	Spencer.
Eustis,			

So the amendment made as in Committee of the Whole was concurred in.

The VICE-PRESIDENT. Is a separate vote demanded on any other amendment?

Mr. EATON. I ask the vote of the Senate on the amendment which I offered in Committee of the Whole on page 4, line 79, down to the word "statutes" in line 84.

Mr. CONKLING. The amendment was negatived in Committee of the Whole.

The VICE-PRESIDENT. It can be renewed in the Senate.

Mr. ALLISON. I ask for a separate vote on section 53. I hope the Senate will not concur in the amendment striking out that section, and that it will be retained in the bill.

Mr. EDMUNDS. It is legislation.

Mr. ALLISON. But we cannot help it.

The VICE-PRESIDENT. The Senator from Iowa asks a separate

vote on concurring in the amendment striking out section 53. The section will be read.

The Secretary read as follows:

Sec. 53. The Secretary of War shall be authorized to detail an officer of the Army, not above the rank of captain, for special duty with reference to Indian education.

The VICE-PRESIDENT. The question is on concurring in the amendment striking out this section.

The amendment was non-concurred in; there being on a division—ayes 9, noes 35.

Mr. COCKRELL. Now I move that the Senate non-concur in section 3, line 10, striking out the words "and the examiner of State claims," &c., to the end of the section.

Mr. BLAINE. How does the Senator frame his amendment to accomplish that end?

Mr. COCKRELL. That leaves it just in the language it was in as it came from the House. I move that we non-concur in the action of the Committee of the Whole striking out that part of it.

The VICE-PRESIDENT. The parliamentary question is, Will the Senate concur in the action of the Committee of the Whole in striking from the third section the matter stated by the Senator from Missouri?

Mr. COCKRELL. These words:

And the examiner of State claims in the office of the Secretary of War shall have, while on such duty, the pay, emoluments, and allowances of mounted officers one grade higher than that held by him in his regiment or corps.

Mr. BLAINE. The Senator moves to concur in the amendment so far as it strikes out certain words. I suppose that is in order.

Mr. COCKRELL. Now I hope the Senate will not concur in striking out these words, but will let them remain as they came from the House; and if the Senate desire any information on that question, I have in my hands a letter from the Secretary of War recommending this in the very strongest terms—

Mr. DAVIS, of West Virginia. That would be debate.

Mr. COCKRELL. I presume the question is debatable.

The VICE-PRESIDENT. It is not under the agreement of the Senate.

Mr. CONKLING. I submit this is not in order in any form. The Committee of the Whole struck out certain sections. The Senator from Missouri moves to concur, as I understand him, in the amendment made by the Committee of the Whole excepting from its operation certain of the words which were a part of the entirety struck out. I submit to the Chair that is not in order.

Mr. COCKRELL. I move to non-concur in certain words, and not to concur in anything.

Mr. CONKLING. Very well; I submit that is not in order.

Mr. BLAINE. It is quite in order, I think. We have struck out forty-eight sections. We may now concur with the recommendation of the Committee of the Whole excepting one section therefrom. We can concur excepting any words of a particular section therefrom. In my judgment it is entirely in order.

The VICE-PRESIDENT. The Chair thinks so if the words embrace a substantive proposition.

Mr. CONKLING. What then is the motion, Mr. President?

The VICE-PRESIDENT. The question is whether the Senate will concur in the action of the Committee of the Whole in striking from section 3 the words, commencing on the ninth line and terminating on the fourteenth line. The question is on the proposition of the Senator from Missouri.

The question being put, there were on a division—ayes 31, noes 28.

Mr. ALLISON and Mr. EDMUNDS called for the yeas and nays; and they were ordered.

Mr. BLAINE. Where does the amendment of the Senator from Missouri striking out begin? At the tenth line?

The VICE-PRESIDENT. The Chair will state the proposition as he understands it. The question is whether the Senate will concur in the action of the Committee of the Whole striking out of this bill in section 3 the clause commencing with the words "and the examiner of State claims," in the tenth line, and terminating at the end of the fourteenth line.

Mr. THURMAN. If I may make what is called a parliamentary inquiry—

The VICE-PRESIDENT. Is there unanimous consent?

Mr. EDMUNDS. To what?

The VICE-PRESIDENT. That the Senator from Ohio debate.

Mr. EDMUNDS. I think not.

Mr. THURMAN. I do not want to debate; I only want to make an inquiry of the Chair if I may. What is the status if these words are retained and all the rest stricken out?

The VICE-PRESIDENT. That is not the province of the Chair to determine.

Mr. BLAINE. That is not the motion. I will make a parliamentary answer. The Committee of the Whole recommended that the forty-eight sections of the bill be struck out, and the Senator from Missouri moves that the Senate concur with the recommendation of the Committee of the Whole except in this one regard.

Mr. THURMAN. How will it read then?

Mr. ALLISON. I will answer the Senator from Ohio in a parliamentary way. The status will be that a captain will get the pay of a major.

The VICE-PRESIDENT. The Secretary will call the roll.

The Secretary proceeded to call the roll.

The roll-call was concluded.

The VICE-PRESIDENT. The Chair thinks Senators have misapprehended this question though the Chair stated it clearly. It was this: Will the Senate concur in the action of the Committee of the Whole by which certain words in this section were stricken from the bill?

Mr. EDMUNDS, (after having voted in the negative.) I wish to change my vote then. I understood the Chair to put the question in the way the Senator from Maine proposed. I vote, therefore, "yea."

Mr. SARGENT. We all voted under a misapprehension.

Mr. WHYTE. That is true. We all voted under a misapprehension.

The VICE-PRESIDENT. The Chair stated the proposition as clearly as he is capable of doing it.

Mr. SAULSBURY. I understood the Chair and voted "nay."

The VICE-PRESIDENT. Senators can change their votes. They understand the state of the question now.

Mr. HOAR. I ask unanimous consent that the roll be called again.

The VICE-PRESIDENT. To which the Chair hears no objection.

Mr. CONKLING. I should like to understand it before I give my consent. Will the Chair be kind enough to state to me again the form of the question on which we should have voted?

The VICE-PRESIDENT. The question as stated by the Chair before this vote was taken, and as now stated, is this: Will the Senate concur in the action of the Committee of the Whole by which it struck from section 3 of the Army appropriation bill the words commencing with the words "and the examiner of State claims" in the tenth line of the section and ending with the fourteenth line?

Mr. CONKLING. So that a vote "yea" strikes out the words, and a vote "nay" leaves them in?

The VICE-PRESIDENT. That is it.

Mr. CONKLING. And being left in, they will all then be subject to amendment, the Committee of the Whole striking out the whole section?

Mr. BLAINE. Oh, no; it leaves the words as they were sent us to stand.

The VICE-PRESIDENT. The Chair so understands.

Mr. BLAINE. This requires a new call of the roll.

Mr. CONKLING. Then it does not make the least difference which way we vote for the words are still left in the bill.

Mr. HARRIS. I vote "nay."

Mr. SARGENT. Under the impression that my vote tends to strike out these words, I vote "yea."

Mr. ALLISON. Having made a mistake in voting "nay," I now vote "yea," so that these words will be stricken out.

Mr. MORRILL. I desire also to change my vote; I vote "yea."

Mr. ANTHONY. I desire to change my vote to "yea."

Mr. WINDOM. I change my vote to "yea."

Mr. FERRY. I change my vote to "yea."

Mr. McMILLAN. I change my vote to "yea."

Mr. CAMERON, of Pennsylvania. I change my vote to "yea."

Mr. CONKLING. I want to withdraw my vote. I am not sure that I want to vote as these other Senators do.

Mr. MATTHEWS. I change my vote to "yea."

Mr. TELLER. I change my vote to "yea."

Mr. DAWES. I change my vote to "yea."

Mr. DORSEY. I change my vote to "yea."

Mr. SPENCER. I change my vote. I want to vote "nay."

Mr. McDONALD. I change my vote to "yea."

Mr. KERNAN. I have not voted yet, but I vote "nay."

Mr. MERRIMON. I change my vote to "nay."

Mr. DAVIS, of West Virginia. I change my vote to "yea."

Mr. HILL. I vote "nay."

Mr. COCKRELL. I change my vote to "nay."

Mr. INGALLS. I change mine to "yea."

Mr. MITCHELL. I vote "nay."

Mr. CONOVER. I vote "yea."

Mr. BARNUM. I change my vote to "yea."

Mr. EATON. And mine to "yea."

Mr. THURMAN. I vote "nay."

Mr. McCREERY. I vote "nay."

Mr. GROVER. I vote "nay."

Mr. WHYTE. I vote "nay."

Mr. BECK. I vote "nay."

Mr. MAXEY. I vote "nay."

Mr. McPHERSON. I vote "nay."

Mr. GARLAND. I vote "nay."

Mr. VOORHEES. I vote "nay."

Mr. MORGAN. I vote "nay."

Mr. EUSTIS. I vote "nay."

Mr. JONES, of Florida. I vote "nay."

Mr. ROLLINS. I change my vote to "yea."

Mr. BOOTH. I change my vote to "yea."

Mr. OGLESBY. I change to "yea," with the privilege of voting "nay," if necessary to settle it.

Mr. KIRKWOOD. I vote "yea."

Mr. WITHERS. I understand the question presents itself in a changed aspect, and I change my vote to "nay."

Mr. EDMUNDS. I vote "nay."

The result was announced—yeas 23, nays 38; as follows:

YEAS—23.			
Allison,	Conover,	Ingalls,	Morrill,
Anthony,	Davis of W. Va.,	Jones of Nevada,	Oglesby,
Barnum,	Dawes,	Kirkwood,	Rollins,
Booth,	Dorsey,	McDonald,	Sargent,
Cameron of Pa.,	Eaton,	McMillan,	Teller,
Conkling,	Ferry,	Matthews,	
NAYS—38.			
Bayard,	Garland,	McCreery,	Shields,
Blaine,	Gordon,	McPherson,	Spencer,
Burnside,	Grover,	Maxey,	Thurman,
Cameron of Wis.,	Hamlin,	Merrimon,	Voorhees,
Chandler,	Harris,	Mitchell,	Wadleigh,
Cockrell,	Hill,	Morgan,	Whyte,
Coke,	Hoar,	Patterson,	Windem,
Dennis,	Howe,	Plumb,	Withers,
Edmunds,	Jones of Florida,	Saulsbury,	
Eustis,	Kernan,	Saunders,	
ABSENT—15.			
Bailey,	Chaffee,	Kellogg,	Ransom,
Beck,	Davis of Illinois,	Lamar,	Sharon,
Bruce,	Hereford,	Paddock,	Wallace,
Butler,	Johnston,	Randolph,	

The VICE-PRESIDENT. The action of the Committee of the Whole is non-concurred in.

Mr. CONKLING. I ask now how the section stands? What is the amendment proposed by the Committee of the Whole?

The VICE-PRESIDENT. It stands, as the Chair understands it, with the words commencing in the tenth line on the fourteenth page, with "and" and terminating with the word "corps," on the fourteenth line, restored, in other words, as the bill came from the House.

Mr. CONKLING. I do not get the words the Chair indicates.

The VICE-PRESIDENT. On the fourteenth page of the bill, commencing after "colonel," in line 10, and so on to the end of the paragraph, the clause is retained.

Mr. CONKLING. Is that in section 4?

The VICE-PRESIDENT. Section 3.

Mr. CONKLING. After the word "colonel?"

The VICE-PRESIDENT. After the word "colonel."

Mr. CONKLING. Those words are restored?

The VICE-PRESIDENT. So the Chair understands.

Mr. CONKLING. Are the words constituting the residue of the section stricken out?

The VICE-PRESIDENT. They are. The concluding words of the section, as the Chair has the copy of the bill, are retained.

Mr. CONKLING. But I inquire whether the preceding words of the section are stricken out?

The VICE-PRESIDENT. The Chair so understands; at least no question has been taken as to them.

Mr. CONKLING. So that the words that stand, and the solitary words in the section now are:

And the examiner of State claims in the office of the Secretary of War, shall have, while on such duty, the pay, emoluments, and allowances of mounted officers one grade higher than that held by him in his regiment or corps.

The VICE-PRESIDENT. The Chair so understands.

Mr. EDMUNDS. I move to reconsider the vote by which the Senate refused to agree to the recommendation of the Committee of the Whole striking out the four lines that the Chair has named.

The VICE-PRESIDENT. The question is on the motion of the Senator from Vermont to reconsider.

Mr. COCKRELL. Did the Senator from Vermont vote with the prevailing side?

The VICE-PRESIDENT. He did. The question is on the motion to reconsider.

Mr. EDMUNDS. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 37; as follows:

YEAS—25.			
Allison,	Conover,	Ingalls,	Rollins,
Anthony,	Davis of W. Va.,	Jones of Nevada,	Sargent,
Barnum,	Dawes,	Kirkwood,	Teller,
Booth,	Eaton,	McDonald,	Windem,
Cameron of Wis.,	Edmunds,	McMillan,	
Chandler,	Ferry,	Morrill,	
Conkling,	Howe,	Oglesby,	
NAYS—37.			
Bailey,	Garland,	Matthews,	Spencer,
Beck,	Gordon,	Maxey,	Thurman,
Blaine,	Grover,	Merrimon,	Voorhees,
Burnside,	Hamlin,	Mitchell,	Wadleigh,
Butler,	Harris,	Morgan,	Wallace,
Cameron of Pa.,	Hereford,	Plumb,	Whyte,
Cockrell,	Jones of Florida,	Ransom,	Withers,
Coke,	Kernan,	Saulsbury,	
Dennis,	McCreery,	Saunders,	
Eustis,	McPherson,	Shields,	
ABSENT—14.			
Bayard,	Dorsey,	Kellogg,	Randolph,
Bruce,	Hill,	Lamar,	Sharon,
Chaffee,	Hoar,	Paddock,	
Davis of Illinois,	Johnston,	Patterson,	

So the motion to reconsider was not agreed to.

Mr. GORDON. Would a vote in the negative on a motion to non-concur in the amendments made as in Committee of the Whole to

section 45 restore that section? If so, I move that the Senate non-concur in the amendments.

The VICE-PRESIDENT. In other words, the Senator from Georgia demands a separate vote on the action by which the Committee of the Whole struck out section 45?

Mr. GORDON. Yes, sir.

The VICE-PRESIDENT. The section will be read.

The Secretary read as follows:

SEC. 45. That for the purpose of promoting knowledge of military art and science among the young men of the United States, the President may, upon the application of any established college or university within the United States, having capacity to educate not less than one hundred and fifty male students at the same time, detail an officer of the Army, to act as president, superintendent, or professor thereof; and the officers thus detailed shall be apportioned throughout the United States as nearly as may be according to population: *Provided*, That the number of officers to be thus detailed shall not exceed seventy-six from the reserved and retired lists; and such retired officers while serving on these details shall receive \$20 a month extra pay.

Mr. CONKLING. Was not that section retained in Committee of the Whole?

The VICE-PRESIDENT. The Chair is informed not.

Mr. CONKLING. I ask the attention of the Senator from Indiana, [Mr. VOORHEES.] Some such section was retained in Committee of the Whole on the suggestion of the Senator from Indiana who amended it by striking out three words, namely, "capacity to educate."

The VICE-PRESIDENT. The Chair is informed by the Clerk that section 52 is the section to which the Senator from New York refers.

Mr. BLAINE. They are different sections, though similar.

Mr. CONKLING. Then I may have fallen into error. I beg pardon if I have. I see now section 52 is the one to which I referred.

Mr. GORDON. The forty-fifth is the one that I wish a vote on.

The VICE-PRESIDENT. The question is, Will the Senate concur in the action of the Committee of the Whole by which it struck from this bill section 45?

Mr. EATON. I suggest to my friend from Georgia that if he restores that section he ought to restore the forty-sixth also.

Mr. GORDON. I have no objection to that. I am willing to embrace in one vote both sections.

Mr. HOAR. I object.

Mr. GORDON. Sections 45 and 46 I will embrace in my motion, if I may.

Mr. BLAINE. It will be observed by the Senator from Georgia that if section 45 be retained the concluding portion of it will have no meaning, because it speaks of "seventy-six officers from the reserved and retired lists," but the sections providing for a reserved list, which is a new phase and a new idea in the Army, have not been adopted.

Mr. GORDON. I intended, as soon as the action was non-concurred in, if that should be the vote, then to move to strike out the proviso from line 10 to line 13.

The VICE-PRESIDENT. Is the Senate ready for the question? As many as favor the proposition of the Senator from Georgia will say "ay," those opposed "no," [putting the question.]

A division was called for.

Mr. EDMUNDS. Will the Chair be kind enough to state the question again. He said "concur in the proposition of the Senator from Georgia."

The VICE-PRESIDENT. The proposition as the Chair understands is this: Will the Senate concur in the action of the Committee of the Whole by which it struck from this bill section 45?

Mr. EDMUNDS. Very well; that is different from the proposition of the Senator from Georgia.

The question being put, there were on a division—yeas 24, noes 22.

The VICE-PRESIDENT. The action of the Committee of the Whole is sustained.

Mr. GORDON. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 34, nays 27; as follows:

YEAS—34.			
Anthony,	Davis of Illinois,	Kernan,	Rollins,
Bayard,	Dawes,	Kirkwood,	Sargent,
Blaine,	Eaton,	McMillan,	Saunders,
Booth,	Edmunds,	Matthews,	Spencer,
Cameron of Pa.,	Ferry,	Mitchell,	Teller,
Candler,	Hoar,	Morrill,	Wadleigh,
Conkling,	Howe,	Patterson,	Windem,
Conover,	Ingalls,	Plumb,	
	Jones of Nevada,	Ransom,	
NAYS—27.			
Bailey,	Garland,	Jones of Florida,	Shields,
Beck,	Gordon,	McCreery,	Thurman,
Burnside,	Grover,	McDonald,	Voorhees,
Butler,	Hamlin,	McPherson,	Wallace,
Cameron of Pa.,	Harris,	Maxey,	Whyte,
Coke,	Hereford,	Merrimon,	Withers,
Davis of W. Va.,	Hill,	Morgan,	
ABSENT—15.			
Allison,	Dennis,	Kellogg,	Randolph,
Barnum,	Dorsey,	Lamar,	Saulsbury,
Bruce,	Eustis,	Oglesby,	Sharon,
Chaffee,	Johnston,	Paddock,	

The VICE-PRESIDENT. The action of the Committee of the Whole is confirmed. Are there further separate votes demanded?

Mr. BLAINE. I believe the Senate has not yet voted on whether

they will concur in the amendment striking out the forty-odd sections relative to Army reorganization.

The VICE-PRESIDENT. They have not. The Chair will put the question after all the separate votes called for are taken.

Mr. EATON. I now ask a vote on the amendment I offered in Committee of the Whole on page 4, from line 79 to line 84, ending at the word "statutes" and commencing with the word "and" in the phrase "and telegrams," &c. I wish to non-concur in the action of the Committee of the Whole.

The VICE-PRESIDENT. The Chair will ask the Senator from Connecticut to move his amendment after the committee amendments shall have been disposed of, his amendment having been voted down in Committee of the Whole. Are there further separate votes to be taken on the amendments made in Committee of the Whole? [A pause.] If not, will the Senate concur in the amendments made as in Committee of the Whole?

The amendments were concurred in.

The VICE-PRESIDENT. The Senator from Connecticut is now in order.

Mr. COCKRELL. That leaves the excepted amendments as they were.

The VICE-PRESIDENT. It leaves the votes of the Senate to stand.

Mr. EATON. Now I move to strike out the words on page 4 from line 79 to line 84, ending with the word "statutes" and commencing with the words "and telegrams."

Mr. THURMAN. To strike out all about telegrams?

Mr. EATON. That is it, to strike out all about telegrams.

Mr. JONES, of Florida. Before the question is put I wish to perfect the text of the clause referred to on line 80, between the words "companies" and "statutes," by inserting the following.

The VICE-PRESIDENT. The Senator from Florida proposes to perfect the matter proposed to be stricken out by what will be read.

The SECRETARY. On page 4, line 80, it is proposed to strike out all after the word "companies" down to and including the word "statutes" in line 84, and in lieu thereof to insert:

Which are hereby authorized to construct, maintain, and operate telegraph lines and to use the lines or wires they now have, for the General Government and the public, subject to all the provisions of title 65 of the Revised Statutes.

Mr. CONKLING. I rise to a question of order. The motion of the Senator is to strike out the very words, and only the words, which were added by way of amendment in Committee of the Whole, in which amendment the Senate has concurred.

The VICE-PRESIDENT. The present incumbent was not in the Chair at the time, but he is informed by the Secretary that it embraces more.

Mr. CONKLING. The history of it is this: the Senator from Wisconsin [Mr. HOWE] moved to insert certain words which are before the Secretary; and now the Senator from Florida moves to strike out those words and to insert other words, which words were rejected in Committee of the Whole. That latter fact would not prevent their being competent; but I submit to the Chair that it is not in order to move to strike out the words which were put in in committee and in which action the Senate has just concurred.

Mr. HOAR. I desire to inquire of the Chair if this is not just what took place: the Senator from Connecticut rose in time on the theory suggested by the Senator from New York to have the question taken before the Senate adopted this general vote to concur. The Chair thereupon informed him that it would be in order to make this motion after the general vote was taken. He desisted for the moment, and immediately renewed his proposition. Now, it seems to me that no Senator, if that be the fact, would interpose a question of order.

Mr. CONKLING. But the Senator from Massachusetts misapprehends. I am not encountering the motion of the Senator from Connecticut.

Mr. HOAR. It was my inquiry whether I did misapprehend.

Mr. CONKLING. I will explain if I am in order. The Senator from Connecticut made the motion to which the Senator from Massachusetts refers. That motion was in order, and the Senate was about to vote upon it when the Senator from Florida [Mr. JONES] rose and moved to strike out the amendment adopted on the motion of the Senator from Wisconsin [Mr. HOWE] and insert in lieu of it some words, to wit, his amendment which had been voted down in Committee of the Whole. The motion of the Senator from Connecticut is in order; but my point of order is that it is not in order for the Senator from Florida, after the Senate has concurred in the amendment made as in Committee of the Whole, which amendment was that offered by the Senator from Wisconsin, to move to strike out those words and insert other words which were voted down in Committee of the Whole. Certainly the Senator from Connecticut is in order.

Mr. THURMAN. I want to understand a question of fact. Were words inserted in Committee of the Whole? I thought these words were not inserted.

Mr. CONKLING. Because the Senator from Florida has not before him the words which he moves to strike out. He says he moves to strike out after the word "companies," which as the bill now stands on the table perfected in Committee of the Whole, are the amendments of the Senator from Wisconsin. Of course they do not appear in the printed bill. They appear in the bill on the record as amended.

Mr. THURMAN. It is always in order to move to strike out words which have been inserted if you move to strike out other words with them. You can move to strike out additional words.

The VICE-PRESIDENT. The Chair, taking his information from the Secretary of the Senate, believes that the proposition of the Senator from Florida covers other words.

Mr. CONKLING. What does it cover?

The VICE-PRESIDENT. The Secretary will report.

The SECRETARY. On page 4, line 80, it is proposed to strike out all after the word "companies" down to and including the word "statutes," in line 84, as follows:

Which may have telegraph lines, and which shall file their written acceptance of the restrictions and obligations imposed on telegraph companies by title 65 of the Revised Statutes, for the Government and for the general public, at rates to be fixed by the Government according to the provisions of title 65 of the Revised Statutes.

Mr. CONKLING. Then the additional word is the word "which" as I understand?

The VICE-PRESIDENT. The Secretary will report the other matter as he understands it.

The Secretary read as follows:

And which shall file their written acceptance of the restrictions and obligations imposed on telegraph companies by title 65 of the Revised Statutes.

The VICE-PRESIDENT. That is the only amendment put in, as the Secretary informs the Chair. The Chair thinks the proposition of the Senator from Florida is in order. The question is on the amendment of the Senator from Florida.

The amendment was rejected; there being on a division—ayes 19, noes 20.

The VICE-PRESIDENT. The question now is on the motion of the Senator from Connecticut to strike out.

Mr. EATON called for the yeas and nays; and they were ordered.

Mr. HOAR. Let the proposition be stated again, Mr. President.

The VICE-PRESIDENT. The matter will be reported which the Senator from Connecticut proposes to strike out.

The SECRETARY. On page 4, line 79, it is proposed to strike out all after the word "telegrams" down to and including the word "statutes" in line 84, as follows:

And telegrams are authorized to be transmitted by railroad companies which may have telegraph lines and which shall file their written acceptance of the restrictions and obligations imposed on telegraph companies by title 65 of the Revised Statutes, for the Government and for the general public, at rates to be fixed by the Government according to title 65 of the Revised Statutes.

The Secretary proceeded to call the roll.

Mr. TELLER, (when his name was called.) On this subject I am paired with my colleague, [Mr. CHAFFEE.] If he were present, he would vote "yea."

The roll-call was concluded.

Mr. BUTLER. On this question I am paired with the Senator from Arkansas, [Mr. DORSEY.]

Mr. ANTHONY. On this question, I am paired with the Senator from Kentucky, [Mr. MCCREERY,] who is absent. I do not know how he would vote.

The result was announced—yeas 27, nays 29; as follows:

YEAS—27.

Barnum,	Chandler,	Howe,	Patterson,
Bayard,	Conkling,	Ingalls,	Rollins,
Blaine,	Conover,	Jones of Nevada,	Sargent,
Bruc,	Eaton,	McDonald,	Saulsbury,
Burnside,	Ferry,	McMillan,	Wadleigh,
Cameron of Pa.,	Hill,	Mitchell,	Windom.
Cameron of Wis.,	Hoar,	Morrill,	

NAYS—29.

Bailey,	Gordon,	Matthews,	Thurman,
Beck,	Grover,	Maxey,	Voorhees,
Booth,	Harris,	Merrimon,	Wallace,
Cockrell,	Hereford,	Morgan,	Whyte,
Coke,	Jones of Florida,	Oglesby,	Withers.
Davis of W. Va.,	Kernan,	Plumb,	
Dawes,	Kirkwood,	Shields,	
Garland,	McPherson,	Spencer,	

ABSENT—20.

Allison,	Dennis,	Johnston,	Randolph,
Anthony,	Dorsey,	Kellogg,	Ransom,
Butler,	Edmunds,	Lamar,	Saunders,
Chaffee,	Eustis,	McCreery,	Sharon,
Davis of Illinois,	Hamlin,	Paddock,	Teller.

So the amendment was rejected.

Mr. BLAINE. I do not want to debate; but the War Department sends here, upon the strong recommendation of General Sheridan, a small item of appropriation of \$10,000 for a military wagon-road from Sidney, via Forts Robinson and Sheridan, to the new Red Cloud agency, in Nebraska, to be inserted after line 247, on page 11.

Mr. EATON. I object.

Mr. BLAINE. I hope the Senator will not object. Probably no Army bill for years has been pruned down as carefully.

Mr. EATON. There are two or three other items of the same character, and therefore I think this ought not to go in.

The VICE-PRESIDENT. The Chair sustains the point of order.

Mr. PADDOCK. I hope the Senator from Connecticut will withdraw his objection.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M.

ADAMS, its Clerk, announced that he was directed by the House to return to the Senate, in compliance with its request, the bill (H. R. No. 2161) for the relief of M. G. Harman, of Virginia.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the Vice-President:

A bill (S. No. 1099) to provide for the settlement of tax-lien certificates erroneously issued by the late authorities of the District of Columbia;

A bill (H. R. No. 1008) relating to the Cumberland road in the State of Ohio, and to authorize the same to become a free road;

A bill (H. R. No. 1094) to remove the disabilities of Asa Wall, imposed by the third section of the fourteenth article of the amendments to the Constitution of the United States;

A bill (H. R. No. 1679) for the relief of Catharine and Sophia Germain;

A bill (H. R. No. 2423) to restrict the immigration of Chinese to the United States;

A bill (H. R. No. 3055) to promote a knowledge of steam engineering and iron-ship building among the students of scientific schools or colleges in the United States;

A bill (H. R. No. 3186) for the relief of the Commercial Bank of Knoxville, Tennessee;

A bill (H. R. No. 5477) to authorize the issue of certificates of deposit in aid of the refunding of the public debt;

A bill (H. R. No. 6150) authorizing the Secretary of the Navy to accept, for the purposes of a voyage of exploration by way of Behring Strait, the ship *Jeannette*, tendered by James Gordon Bennett for that purpose;

A bill (H. R. No. 6225) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 20, 1878; and

A joint resolution (H. R. No. 232) making an appropriation for the benefit of the penny-lunch house, of Washington, District of Columbia.

CREDENTIALS.

The VICE-PRESIDENT presented the credentials of ROSCOE CONKLING, chosen by the Legislature of New York a Senator from that State for the term beginning March 4, 1879; which were read, and ordered to be filed.

Mr. SARGENT presented the credentials of James T. Farley, chosen by the Legislature of California a Senator from that State for the term beginning March 4, 1879; which were read, and ordered to be filed.

ADDRESSES ON REPRESENTATIVE A. S. WILLIAMS.

The VICE-PRESIDENT laid before the Senate the following concurrent resolution from the House of Representatives; which was referred to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring.) That there be printed 20,000 copies of the memorial addresses delivered in the Senate and House of Representatives upon the life and character of the late Alpheus S. Williams, late a Representative from the State of Michigan, of which 15,000 shall be for the use of the House, and 5,000 for the use of the Senate.

M. G. HARMAN.

The VICE-PRESIDENT laid before the Senate the bill (H. R. No. 2161) for the relief of M. G. Harman, of Virginia, which had been returned from the House of Representatives in compliance with the request of the Senate.

Mr. HOAR. I ask unanimous consent that the vote by which the bill just returned from the House of Representatives was passed be reconsidered, and that it be amended by inserting after the word "pay" the words "personal representative of the late." This is a bill for the payment of a small claim of three or four hundred dollars, and the man died just before the bill passed the Senate. I ask unanimous consent to have this done. It will then read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed, out of any money not otherwise appropriated, to pay to the personal representative of the late M. G. Harman, of Virginia, the sum of \$334 for the rent, by contract, of stables at Fredericksburgh, Virginia, for the use of the Union Army.

The VICE-PRESIDENT. If there be no objection the vote passing the bill and also the vote ordering it to a third reading will be regarded as reconsidered, and the amendment offered by the Senator from Massachusetts will be agreed to. The Chair hears no objection, and it is so ordered.

The amendment was ordered to be engrossed, and the bill to be read the third time.

The bill was read the third time, and passed.

Mr. HOAR. Now the title I move to amend so as to read:

A bill for the relief of the personal representative of the late M. G. Harman, of Virginia.

The amendment was agreed to.

AMENDMENTS TO BILLS.

Mr. INGALLS submitted an amendment intended to be proposed by him to the bill (H. R. No. 6471) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which was referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. BRUCE, Mr. PLUMB, Mr. PADDOCK, Mr. FERRY, Mr. WHYTE, and Mr. MITCHELL submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6471) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. FERRY, and Mr. CAMERON of Wisconsin, submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6463) making appropriations for the construction, repair, preservation, and completion of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. PADDOCK submitted an amendment intended to be proposed by him to the bill (H. R. No. 5218) to establish post-routes in the several States herein named; which was referred to the Committee on Post-Offices and Post-Roads.

THE MISSISSIPPI IMPROVEMENT COMMISSION.

Mr. BRUCE. I offer the following notice:

The Secretary read as follows:

Mr. BRUCE renews his notice that he will, on Wednesday next, February 26, move to suspend the Anthony rule and all prior orders to proceed to the consideration of the bill (H. R. No. 4318) to provide for the organization of "the Mississippi River improvement commission," and for the correction, permanent location, and deepening of the channel and the improvement of the navigation of said Mississippi River, and the protection of its alluvial lands.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had agreed to some and disagreed to other amendments of the Senate to the bill (H. R. No. 4414) to amend the laws relating to internal revenue, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. R. TUCKER of Virginia, Mr. W. M. ROBBINS of North Carolina, and Mr. H. C. BURCHARD of Illinois, managers at the conference on its part.

BILL INTRODUCED.

Mr. BRUCE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 70) for the relief of Delphine P. Baker; which was read twice by its title, and referred to the Committee on Military Affairs.

ORDER OF BUSINESS.

Mr. HARRIS. Mr. President, I move to postpone the present and all previous orders in order that I may move to proceed to the consideration of the bill (S. No. 1784) to prevent the introduction of contagious or infectious diseases into the United States, and to establish a bureau of public health.

Mr. ALLISON. I do not desire to antagonize the bill of the Senator from Tennessee unless it is to occupy time. If it is, it seems to me in the orderly procedure of business here we ought to take up the deficiency bill and pass it.

Mr. HARRIS. Of course it is impossible for me to say how much time the consideration of the bill I have suggested will occupy; I hope not exceeding one hour. But, as I said before, it is impossible for me to know or anticipate the character of the questions or the number of questions that may be raised in reference to it. I hope that an hour or an hour and a half may prove quite sufficient for its consideration and its passage; and certainly, while I have no desire to antagonize any one of the appropriation bills, there is perhaps no question that addresses itself to the consideration of this body of paramount importance to the one to which I invite the attention of the Senate and its immediate action; and I very much hope that my friend from Iowa will not antagonize its consideration. I shall certainly second all his efforts now and hereafter to proceed from time to time and as long as he may desire to proceed with the consideration of every appropriation bill.

Mr. ALLISON. May I suggest to the Senator from Tennessee that we allow his bill to be taken up and then lay it aside, and it will then be the pending order after the deficiency bill is passed?

Mr. HARRIS. I shall certainly acquiesce in that suggestion if the Senator from Iowa will allow me to suggest that we read this bill and ascertain whether or not questions are going to arise upon it that will consume any considerable time. If not, I desire very much that this bill should be passed so that it may go to the House of Representatives and be considered there; but if it shall result in consuming any considerable time I shall readily yield to the suggestion of the Senator from Iowa and allow it to be laid aside informally in order that the bill he has suggested may be considered.

The VICE-PRESIDENT. Is there objection to the proposition of the Senator from Tennessee?

Mr. HAMLIN. Mr. President, I feel it my duty to object to any such arrangement, and I will state in a few words why. The bill which the Senator from Tennessee proposes to call up is a Senate bill, and at this late day in the session, with so many appropriation bills still behind us, who supposes that any bill passing one branch at this hour in the session will receive consideration in the other branch? I think it will prove just so much time lost. I agree to the importance of the measure, but a discussion of that measure in this body and a passage of the bill here will not secure action in the other body, and it would be just so much time thrown away.

Now there is the Geneva award bill, to which I have invited the

attention of the Senate, that reaches its thousand individuals, many of them widows and orphans. Let the question be settled as it may, it cannot fail to reach a great many thousands of people whom I believe justly entitled to a portion of that award. If the Senate will take up that bill, and there shall prove to be here a majority of this body that will concur in the action of the House, we have the bill passed; or if we shall not concur in the action of the House, but shall come to a different conclusion, the bill will then be in a position where it may be settled in conference.

I regard the one as an important measure, but which cannot be finally acted upon; I regard the other as a very important measure which may be finally acted upon if the Senate will give to it its consideration. I therefore, while I said I would not antagonize an appropriation bill, must antagonize it against every other measure. I must therefore object to the arrangement proposed.

Mr. CAMERON, of Wisconsin. I gave notice this morning that as soon as the Senate disposed of the Army appropriation bill I would move to have the resolution reported from the Committee on Privileges and Elections on the 4th day of this month declaring Mr. Corbin entitled to a seat in this body as a Senator from the State of South Carolina; but it is so late now in the afternoon that I will not make that motion to-day.

Mr. THURMAN. Did not the Senator from Tennessee move to take up the bill in relation to the yellow fever?

The VICE-PRESIDENT. The Senator from Tennessee moved to postpone the pending order for the purpose of taking it up.

Mr. THURMAN. The pending order is what?

The VICE-PRESIDENT. The pending order is the consideration of the Calendar of general orders, there being neither unfinished business nor special orders.

Mr. THURMAN. Was not the motion of the Senator from Tennessee in order?

The VICE-PRESIDENT. Entirely in order.

Mr. THURMAN. Then I do not see that the objection of the Senator from Maine has any avail.

The VICE-PRESIDENT. It has not; but it is a debatable question.

Mr. THURMAN. I hope the vote will be taken on the motion of the Senator from Tennessee.

SENATOR FROM SOUTH CAROLINA.

Mr. CAMERON, of Wisconsin. I send to the desk a proposed amendment to the resolution in relation to the South Carolina case, which, when the resolution is taken up, I will move, and I ask that it be read for information.

The VICE-PRESIDENT. The proposed amendment will be read for information.

The SECRETARY. It is proposed to amend the resolution by adding at the end thereof:

And that M. C. BUTLER was not duly elected by the Legislature of the State of South Carolina to be a Senator in the Senate of the United States for said term, and he is not, upon the merits of his case, entitled to a seat in the Senate.

ORDER OF BUSINESS.

Mr. ALLISON. I cannot consent, without the vote of the Senate, to setting aside—because that is practically the proposition of the Senator from Tennessee—the deficiency appropriation bill, unless it is understood that the Senator will waive his right to consider his bill if there is the slightest debate upon it.

Mr. HARRIS. If the Senator from Iowa will consent that this bill be taken up, I will say that if it develops debate, consumes time, whenever the Committee on Appropriations demand it of me, I shall consent that it shall be informally laid aside in order that the appropriation bill may be considered.

Mr. ALLISON. With that understanding I shall not object to the Senator's motion.

The VICE-PRESIDENT. The Chair then receives this as the understanding of the Senate, that the bill proposed by the Senator from Tennessee shall now be taken up and considered, but that at any time upon the demand of the Committee on Appropriations it shall be informally laid aside.

Mr. EDMUNDS. I cannot agree to that, for one.

The VICE-PRESIDENT. Objection is made.

Mr. HARRIS. I ask for the question, then, on my motion.

The VICE-PRESIDENT. The question is on the motion of the Senator from Tennessee, which is that the pending order be postponed and that the Senate now proceed to the consideration of the bill relative to epidemic diseases.

Mr. EDMUNDS called for the yeas and nays, and they were ordered.

Mr. EATON. May I understand before voting that the Senator from Tennessee will consent, if a demand is made by the Committee on Appropriations, that the bill be informally laid aside?

Several SENATORS. Yes.

Mr. HARRIS. If the Senate shall order the taking up of the bill at this time, I have said, and I now repeat, that on the demand of the Committee on Appropriations I will consent to its being informally laid aside for the consideration of a regular appropriation bill.

Mr. McMILLAN. I should like to ask the Senator from Tennessee whether he embraces within the appropriation bills the bill appropriating money for the payment of claims reported by the commissioners of claims, the bill reported by the Committee on Claims of the

Senate? I shall want to have that bill considered at a very early period.

Mr. HARRIS. I have stated that on demand of the Committee on Appropriations I will consent that this bill be informally laid aside. I do not feel inclined to extend that consent any further; but whenever the Committee on Appropriations shall demand the time for the consideration of a regular appropriation bill, I will consent to its being informally laid aside.

Mr. McMILLAN. This is not a bill within the control of the Committee on Appropriations, but it is a bill appropriating money for the payment of a large number of claims that have been passed upon by the commissioners of claims, passed by the House of Representatives, and reported by the Senate Committee on Claims to this body. I shall ask to have that bill considered at the earliest moment. I hope that no other business will be taken up in preference to it.

Mr. HAMLIN. I shall vote against the motion submitted by the Senator from Tennessee, because I believe the Geneva award bill ought to have precedence; but I will not consume the time of the Senate by discussion.

Mr. EDMUNDS. Mr. President—

The VICE-PRESIDENT. The Senator from Vermont.

Mr. BAYARD. Will the Senator from Vermont allow me to ask for a committee of conference? I move that the Senate insist on its amendments and appoint a committee of conference on the internal-revenue bill.

Mr. EDMUNDS. Not just now. I want to see what the proposition is.

The VICE-PRESIDENT. The Senator from Vermont does not yield for that purpose.

Mr. EDMUNDS. Mr. President, the other day, two weeks ago or so, when the House constitutional amendment proposing by its title, but not much by any part of the amendment itself, to cut off the claims of disloyal persons on the Treasury for matters growing out of the war, was before the Senate the Senate postponed that and all prior orders to take up a bill that somebody else had an interest in, and it was done. Although my responsibility in respect of that constitutional amendment has been answered, still I think it right to call the attention of the Senate to the fact that the House of Representatives—I will just wait a minute or two, Mr. President; I am not in the least hurry.

The VICE-PRESIDENT. Is the Senate ready for the question?

Mr. EDMUNDS. No, I am waiting for the other gentlemen who have the floor to finish their speeches, and then I will go on with mine.

The VICE-PRESIDENT. The Senator will wait some time then.

Mr. EDMUNDS. Then I will wait some time. I am not in the least hurry.

The VICE-PRESIDENT. The Senate will be in order.

Mr. EDMUNDS. Notwithstanding, as I was saying, that my responsibility, as the chairman of the Committee on the Judiciary, that reported back this House resolution amended so as to make it amount to something, has ceased, and ceased by the votes of those of my political friends who thought that a local question was of more importance, I still think it a duty to call the attention of the Senate to the fact that here is this resolution from the House of Representatives that has been reported with amendments, and which is on the Calendar of the Senate, and that anybody who is desirous of disposing of that question and leaving no responsibility to the people on the part of the Senate depending when we adjourn ought to help to take it up and proceed with it, as I think we ought to have done some weeks ago.

Mr. CONKLING. We ought to take that up now.

Mr. EDMUNDS. It ought to be taken up now, if there is no appropriation bill standing in the way, unless there is some question of privilege or whatever it may be that should override that. Therefore without any hostility to the bill moved by the Senator from Tennessee, and so far as I know with the disposition on my part to vote for it, although I have not examined it with care, I think the Senate ought to determine whether it will allow this great measure of security to the Treasury, passed by the House of Representatives, to be utterly and finally swamped, or whether it will proceed to take it up; and looking at it in that point of view I shall vote against the proposition of the Senator from Tennessee in the hope, if that be defeated, the measure to which I have referred may be taken up, unless it should be overridden by some question of high privilege.

Mr. BLAINE. May I ask the Senator from Vermont whether the Committee on the Judiciary recommend that we concur in the amendment proposed by the House?

Mr. EDMUNDS. We recommend that we concur in the amendment proposed by the House with an amendment, to make it a little more what we must suppose from the title of the joint resolution was the intention of the House.

Mr. BLAINE. That is just the fact which probably influences a good many votes.

Mr. EDMUNDS. I dare say.

Mr. DAVIS, of Illinois. I have no objection to the constitutional amendment being taken up, but I do not want to antagonize the motion of the Senator from Tennessee. I think there is no more important subject before the Senate to-day than the one that the Senator from Tennessee has in charge. The people of my State are ex-

ceedingly interested in it as well as the southern people, because if there is yellow fever at Memphis we are sure to have plenty of persons from Memphis all over the State of Illinois, and so when it is at New Orleans. I believe that that bill ought to be taken up in preference to anything else, especially when the Senator from Tennessee says that he will give way to the Appropriations Committee. I have no objection to taking up the constitutional amendment which the Senator from Vermont desires to take up when there is time to do so after the bill moved by the Senator from Tennessee is disposed of. This disease may break out in the South in ninety days, and it is truly of importance that we should pass a measure here, if it is possible, and then trust to the House to pass it. The Senator from Maine [Mr. HAMLIN] says it is impossible to get this measure through, and that the bill in relation to the Geneva award should have precedence. Mr. President, the bill in relation to the Geneva award will occupy infinitely more debate than this subject. I have no objection to considering that measure, but then there are preferences to be given to certain bills, and this is one of them. The Geneva award bill cannot pass here in any way unless it is discussed a long time.

Mr. VOORHEES. Mr. President, it sounds strange to me that there should be any question in debate whatever as to what ought to be the order of business. I do not know that the Senator from Tennessee has a measure in charge that will obviate the yellow fever or lessen its horrors, if it strikes again any portion of this country; but if it is possible that such a measure can be brought forward here and passed, there is no other measure to be considered in comparison with it for a single moment. Think for a moment! On the one hand, the Senator from Tennessee comes forward with a measure that is thought to be an alleviation from this scourge. That is antagonized on the other side by the Senator from Vermont, who says that the Treasury is in danger of disloyal claimants getting some money out of it, and therefore let the yellow fever scourge the country so we keep some disloyal person from getting his hands on the public moneys.

The Senator from Tennessee comes forward with a measure to establish a bureau of health, to establish regulations to promote the health of the people of this country. The Senator from Maine objects, and says that here is the Geneva award bill, and that the insurance companies have a valid claim for the payment of their premiums, and that bill ought to take precedence in his judgment over a subject of this sort. The Senator from Tennessee proposes regulations to quarantine this country from the most awful plague that ever afflicted the human family. The Senator from Minnesota answers with the cry of deficiency bills, that somebody ought to be paid, who has not been paid all the Government owes him, and he has a deficiency here which should be voted at once.

Mr. BECK. That the marshals ought to be paid!

Mr. VOORHEES. That the marshals and deputy marshals, with hungry stomachs, with their mouths open, who have stood around the polls supervising elections, want their per diem; that some of it is yet unpaid. While the Senator from Tennessee invokes us to his measure—an agent of mercy, health, and protection, he is antagonized by these sordid arguments—I speak very respectfully—coming to us upon the ordinary topics of human life.

I gave notice to-day, or at least submitted a proposition, that I would try and have a session to-night in behalf of nearly four hundred bills on the Calendar, among them pension bills in behalf of crippled soldiers, in behalf of weeping women who are around your corridors, whose piteous appeals and piteous faces haunt me as I come and go from my committee-room. I asked that their cases might be considered, and I shall ask at the proper time for another occasion to do so, but when the Senator from Tennessee came to me in behalf of a measure which holds out some promise against the return of this scourge which made the world grow pale in the last twelve months and moved the whole heart of this country and of the civilized nations of the earth, I said I would wait with these three or four hundred cases; and I earnestly hope that we may at once proceed to the consideration of that measure. I do not believe that it can provoke much debate; I do not believe it is a measure that can evoke antagonism. Let us consider it, let us pass it, let it be tried. It may do no good, but I hope it may do much. At least it is our duty in the interest of humanity and of our fellow-countrymen to make the effort.

Mr. EDMUNDS. Mr. President, the United States has been afflicted with the yellow fever a good many times in a good many Administrations, and it never has been thought fit hitherto to exercise the national power, whatever it may be, against the regulations of the States for the health of the citizens of the respective States. The committee on that subject reported a long time ago this measure, and it has been patiently waiting without feeling any of the sordidness that the Senator from Indiana seems to be struck with just now, when a good many little claims have been moved to pay people for injuries that were suffered during the late rebellion. Nobody objected to proceeding on the ground that the yellow-fever bill was a thing that ought to be considered. Therefore I must say that it is slightly suspicious, in the parliamentary sense of course, that we have got all at once a consolidated opinion where the interests of humanity cry out so loudly for the abolishment of the yellow fever by law. It does not look to me exactly sound, and I do not think it is sound. That the Senator from Tennessee should have his bill considered in due order, I entirely agree; but to have it considered upon the notions proposed by the Senator from Indiana, I entirely disagree

to, because I do not believe, with great respect to him, that they correctly apply to the consideration of the subject, for the reasons that I have stated.

Of course, if the Senate desires to do this thing it will do it, but it had better not do it upon the idea that we are going to pass a law which is to abolish the yellow fever, or that we are for this purpose going to absorb the powers that belong to the States, with the idea that we can help the matter much, when we are not very willing to absorb any powers (or any powers that anybody thinks are powers) that belong to the States for any other purpose. In the language of a celebrated Senator, who I suppose will be still more celebrated in a few years, that "won't do." That the Senator from Tennessee has a right to have his measure considered in its due place and order, I do not deny at all. I am quite ready to consider it myself, but I do think that a measure which was before the Senate a fortnight ago, sent here from the House of Representatives, and all ready to be acted upon, and which was then set aside for something else, is entitled to precedence. That is all I wish to say.

The PRESIDING OFFICER, (Mr. HOAR in the chair.) The question is on the motion of the Senator from Tennessee on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. ANTHONY, (when his name was called.) I am paired with the Senator from Kentucky, [Mr. McCREERY,] who is absent. I do not consider the yellow-fever a party question, but each of us having confidence in the other that he would vote wrong upon any question, we paired upon all questions.

The Secretary resumed and concluded the call of the roll; and the result was announced—yeas 45, nays 14; as follows:

YEAS—45.

Bailey,	Conkling,	Jones of Florida,	Saulsbury,
Barnum,	Conover,	Kernan,	Saunders,
Bayard,	Davis of Illinois,	Lamar,	Shields,
Beck,	Dennis,	McDonald,	Spencer,
Blaine,	Eaton,	McPherson,	Thurman,
Burnside,	Eustis,	Matthews,	Voorhees,
Butler,	Ferry,	Maxey,	Wallace,
Cameron of Pa.,	Garland,	Merrimon,	Whyte,
Cameron of Wis.,	Gordon,	Paddock,	Withers.
Chandler,	Harris,	Patterson,	
Cockrell,	Hereford,	Plumb,	
Coke,	Hill,	Ransom,	

NAYS—14.

Allison,	Hamlin,	Morrill,	Wadleigh,
Booth,	Hoar,	Rollins,	Windom.
Dawes,	McMillan,	Sargent,	
Edmunds,	Mitchell,	Teller,	

ABSENT—17.

Anthony,	Grover,	Kellogg,	Randolph,
Bruce,	Howe,	Kirkwood,	Sharon.
Chaffee,	Ingalls,	McCreery,	
Davis of W. Va.,	Johnston,	Morgan,	
Dorsey,	Jones of Nevada,	Oglesby,	

So the motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1784) to prevent the introduction of contagious or infectious diseases into the United States, and to establish a bureau of public health.

Mr. BAYARD. I wish to move that a committee of conference be appointed on the disagreeing votes on the bill to amend the internal-revenue laws.

Mr. EDMUNDS. The regular order, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont demands the regular order, which is the reading of the bill which has just been taken up.

The Secretary read the bill.

Mr. EDMUNDS. Now, Mr. President, the bill having been read, if this measure can stop long enough without danger of yellow fever, to allow the Senator from Delaware to make the motion that he wished to submit, I have no objection, but I should be sorry to have the United States run any risk about this bill on that account.

INTERNAL-REVENUE LAWS.

Mr. BAYARD. I move, then, that the Senate insist upon its amendments to the bill (H. R. No. 4414) to amend the laws relating to the internal revenue, and agree to the conference upon the disagreeing votes of the two Houses, asked for by the House of Representatives.

Mr. EDMUNDS. I should like to have it read and see what we are to have a conference on.

The PRESIDING OFFICER. Does the Senator from Vermont desire the amendments of the House to be read?

Mr. EDMUNDS. Yes; I wish to see precisely what the House have disagreed to. I do not ask to have all the amendments read, but only those that point out the disagreeing votes of the two Houses.

The PRESIDING OFFICER. Is there unanimous consent to laying aside the pending order temporarily for this purpose? The Chair hears no objection, and the Secretary will report the amendments disagreed to by the House of Representatives.

Mr. EDMUNDS. I suggest to the Secretary to read the message of the House of Representatives, and we shall understand it better, in the first place.

The Secretary read as follows:

IN THE HOUSE OF REPRESENTATIVES, UNITED STATES,
February 24, 1879.

Resolved, That the House concur in the amendments of the Senate to the bill

(H. R. No. 4414) to amend the laws relating to internal revenue, numbered as follows:

Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, and 82;

And that the House non-concur in the amendments of the Senate to the said bill numbered as follows:

Nos. 16, 70, and 81; and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. TUCKER, Mr. ROBBINS, and Mr. BURCHARD be the managers of the said conference on the part of the House.

Attest.

GEORGE M. ADAMS, Clerk.

Mr. EDMUNDS. Now I should like to hear the amendments of the Senate that the House has disagreed to, read, so that we shall know what we are to have a conference on.

The SECRETARY. It is proposed on page 10 of the bill to strike out all from line 1 down to and including line 22, and in lieu thereof to insert:

That section 18 of "An act to amend existing customs and internal-revenue laws, and for other purposes," approved February 8, 1875, be amended to read as follows: "SEC. 18. That retail dealers in liquors shall pay \$25. Every person who sells, or offers for sale, foreign or domestic distilled spirits, wines, or malt liquors, otherwise than as hereinafter provided, in less quantities than five wine-gallons at the same time, shall be regarded as a retail dealer in liquors. Wholesale liquor dealers shall each pay \$100. Every person who sells, or offers for sale, foreign or domestic distilled spirits, wines, or malt liquors, otherwise than as hereinafter provided, in quantities of not less than five wine-gallons at the same time, shall be regarded as a wholesale liquor dealer. But no distiller who has given the required bond, and who sells only distilled spirits of his own production at the place of manufacture in the original packages to which the tax-stamps are affixed, shall be required to pay the special tax of a wholesale liquor dealer on account of such sales. Retail dealers in malt liquors shall pay \$20. Every person who sells, or offers for sale, malt liquors in less quantities than five gallons at one time, but who does not deal in spirituous liquors, shall be regarded as a retail dealer in malt liquors. Wholesale dealers in malt liquors shall pay \$50. Every person who sells, or offers for sale, malt liquors in quantities of not less than five gallons at one time, but who does not deal in spirituous liquors at wholesale, shall be regarded as a wholesale dealer in malt liquors: *Provided*, That no brewer shall be required to pay a special tax as a dealer by reason of selling in the original stamped packages, whether at the place of manufacture or elsewhere, malt liquors manufactured by him, or purchased and procured by him in his own casks or vessels, under the provisions of section 3349 of the Revised Statutes; but the quantity of malt liquors so purchased shall be included in calculating the liability to brewers' special tax of both the brewer who manufactures and sells the same and the brewer who purchases the same: *And it is hereby provided*, That no further collection of special tax as retail dealers in malt liquors shall be made from brewers for selling malt liquors of their own manufacture in the original stamped eighth-barrel package: *Provided further*, That any assessments of additional special tax against wholesale liquor dealers or retail liquor dealers, or against brewers for selling malt liquors of their own production at the place of manufacture in the original casks or packages, made by reason of an amendment to section 59 of the internal-revenue act approved July 20, 1868, as amended by section 13 of the act approved June 6, 1872, further amending said section 59 by striking out the words "malt liquor," "malt liquors," "brewer," and "malt liquors" in the three several paragraphs in which they occur, shall be, on proper proofs, remitted; and if such assessments have been paid the amounts so paid shall be, on proper proofs, refunded by the Commissioner of Internal Revenue.

Mr. EDMUNDS. I should like to have the Senator from Delaware tell us what the next amendment disagreed to by the House is, if he will.

Mr. BAYARD. Not having the bill before me with the amendments numbered in that way, I am unable to state. I have been given to understand that the differences between the House and the Senate are upon the lucifer-match tax provision and upon the savings-bank clause. The others I believe are mere matters of regulation and do not affect the revenue part of the bill.

Mr. EDMUNDS. Now, let the next amendment be read.

The SECRETARY. The Senate struck out the following provision in the bill as it came from the House of Representatives:

That so much of section 3437 of the Revised Statutes as provides for a tax on lucifer or friction matches shall be repealed, the same to take effect on and after the 1st day of January, A. D. 1879.

The PRESIDING OFFICER. There is one more amendment.

The SECRETARY. At the end of the bill the Senate inserted the following additional section:

(81) SEC. 22. That whenever and after any bank has ceased to do business by reason of insolvency or bankruptcy, no tax shall be assessed or collected, or paid into the Treasury of the United States, on account of such bank, which shall diminish the assets thereof necessary for the full payment of all its depositors; and such tax shall be abated from such national banks as are found by the Comptroller of the Currency to be insolvent; and the Commissioner of Internal Revenue, when the facts shall so appear to him, is authorized to remit so much of said tax against insolvent State and savings banks as shall be found to affect the claims of their depositors.

That in making further collections of internal-revenue taxes on bank deposits, no savings-bank, recognized as such by the laws of its State, and having no capital stock, shall, on account of mercantile or business deposits heretofore received, upon which no interest has been allowed to the parties making such deposits, be denied the exemptions allowed to savings-banks having no capital stock, and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the banks, if such bank has paid the lawful tax upon the entire average amount of such business or mercantile deposits.

That section 3408 of the Revised Statutes be amended by striking out all after the thirtieth line, and inserting the following:

"The deposits in associations or companies known as provident institutions, savings-banks, savings funds, or savings institutions, recognized solely as such by the laws of their respective States, shall be exempt from tax on so much of their deposits as they have invested in securities of the United States, and on \$2,000 of each deposit made in the name of any one person, firm, or corporation; and the exemption provided for by this section shall equally apply to all savings deposits in any legally organized banks whatever. That all laws and parts of laws inconsistent with the provisions of this section be, and the same are hereby, repealed."

Mr. BAYARD. I have submitted a motion that the Senate insist

on the amendments disagreed to by the House and agree to the conference asked by the House.

The PRESIDING OFFICER. The Senator from Delaware moves that the Senate insist on its amendments and agree to the request of the House for a conference.

The motion was agreed to.

The PRESIDING OFFICER. How shall the committee be appointed? ["By the Chair."] Is there unanimous consent that the Vice-President appoint the committee? The Chair hears no objection. It is so ordered.

BUREAU OF PUBLIC HEALTH.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1784) to prevent the introduction of contagious or infectious diseases into the United States, and to establish a bureau of public health.

Mr. COCKRELL. In section 4, line 11, the bill reads, "which shall be lien upon said vessel." The article "a" is left out. It should read "which shall be a lien upon said vessel."

The PRESIDING OFFICER. (Mr. HOAR in the chair.) The word "a" will be inserted, there being no objection.

Mr. EDMUNDS. I should be glad to have the Senator from Tennessee, if it does not disturb the hasty necessity for the passage of this bill, tell us why it is that the select committee reporting this bill propose to charge this bureau of health "with the execution of all laws and orders, rules and regulations, made in pursuance of law, for the improvement of the sanitary condition of the District of Columbia?" It is only a very little while ago that we reorganized the government of the District of Columbia, and gave the authorities of the District the powers that the authorities of other cities have in respect of health. The effect of this clause is to overset all that, and make this national board the supreme arbiters of every local and municipal regulation in this town. This provision is found on page 3, section 3, lines 16 to 19 inclusive.

Mr. HARRIS. Mr. President, the theory of this bill is to establish a bureau of health in the Treasury Department, and if it be proper to establish such a bureau, it is certainly, in the opinion of the committee, the proper depository for the making of all necessary rules and regulations and for the enforcement of all laws affecting health in the District of Columbia. Under the law as it exists, I believe we have no board of health in the District of Columbia, but the commissioners are charged with the general duty of looking after that as well as the various other duties that devolve upon them. If it be proper at all to create this bureau of health, in the opinion of the committee reporting this bill, it is the proper depository to have charge of the sanitary condition of the District.

Mr. EDMUNDS. Then, if that be true, if this bureau of health were to have its headquarters in the city of New York, it would be equally proper that it should take charge of the whole health of that city. It seems to be a question of location merely of where the board is.

Mr. HARRIS. I hardly think the deduction of the Senator from Vermont is fair. New York happens to be situated in a State, while Congress has exclusive jurisdiction within the limits of the District of Columbia.

Mr. EDMUNDS. I am not speaking of the question of constitutional law; I am speaking of the fitness of things. There happens to be a city in this District over which Congress has exclusive legislative power unquestionably, and that city, or the two cities, or the county, or whatever it may be, having already by law its own local municipal regulations and local health departments, which includes street cleaning and the removal of garbage, &c., confided by a recent act, which remodeled the whole thing, to a local board, the question is whether it is wise and right to transfer all that to a national board with more machinery and perhaps with greater powers. That is the question; and therefore, in order to express my own view—very likely I shall be entirely alone—I move to strike out those four lines, beginning at the first of line 16 and going to and including the word "Columbia," in line 19, of section 3.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont, which will be reported.

The SECRETARY. It is proposed to strike out the words:

The bureau of health shall also be charged with the execution of all laws and orders, rules and regulations, made in pursuance of law, for the improvement of the sanitary condition of the District of Columbia.

The question being put, there were on a division—ayes 17, noes 21; no quorum voting.

Mr. HARRIS. I ask for the yeas and nays.

Mr. DAVIS, of Illinois. There are plenty of Senators here. They have come from the cloak-room since the division was taken.

Mr. EDMUNDS. Let us have the yeas and nays at once. That is much better than to have division after division.

Mr. HARRIS. I withdraw the demand for the yeas and nays, and ask for another division.

Mr. EDMUNDS. I ask for the yeas and nays.

Mr. HARRIS. I beg the Senator's pardon. I was not aware that he had asked for the yeas and nays.

The yeas and nays were not ordered, the call not being seconded by one-fifth of the Senators present.

Mr. HARRIS. I ask unanimous consent to have another division taken.

Mr. EDMUNDS. I object to that, if we cannot have the yeas and nays.

Mr. EATON. I thought the Senator from Vermont called for the yeas and nays.

Mr. SARGENT. I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from California renews the call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. MITCHELL, (when his name was called.) I am paired on this bill generally with the Senator from South Carolina [Mr. PATTERSON] on all disputed points. I do not know how he would vote on this amendment if he were here, and I refrain from voting.

Mr. ROLLINS, (when his name was called.) On this general subject I am paired with the Senator from North Carolina, [Mr. MERRIMON.] I do not know how he would vote on this amendment. I should vote "yea" if he were present.

The roll-call having been concluded, the result was announced—yeas 23, nays 24; as follows:

YEAS—23.			
Allison,	Eaton,	McMillan,	Saunders,
Booth,	Edmunds,	Morgan,	Teller,
Chandler,	Ferry,	Morrill,	Wadleigh,
Coke,	Hamlin,	Oglesby,	Whyte,
Davis of Illinois,	Hoar,	Plumb,	Windom.
Dawes,	Kirkwood,	Sargent,	

NAYS—24.			
Bailey,	Davis of W. Va.,	Jones of Florida,	Macey,
Beck,	Garland,	Kernan,	Paddock,
Butler,	Gordon,	Lamar,	Shields,
Cameron of Wis.,	Harris,	McDonald,	Voorhees,
Cockrell,	Hereford,	McPherson,	Wallace,
Conover,	Hill,	Matthews,	Withers.

ABSENT—29.			
Anthony,	Conkling,	Jones of Nevada,	Rollins,
Barnum,	Dennis,	Kellogg,	Saulsbury,
Bayard,	Dorsey,	McCreery,	Sharon,
Blaine,	Eustis,	Merrimon,	Spencer,
Bruce,	Grover,	Mitchell,	Thurman.
Burnside,	Howe,	Patterson,	
Cameron of Pa.,	Ingalls,	Randolph,	
Chaffee,	Johnston,	Ransom,	

So the amendment was rejected.

Mr. EUSTIS. I move to add as an additional section the following:

Sec. —. This act shall continue in force for the period of four years from and after its approval.

Mr. HARRIS. If this act shall prove unwise, it may be repealed at any hour that Congress is in session; and why fix a limitation upon it in the act itself? I hope the amendment will not be adopted.

Mr. EUSTIS. It can be repealed at any hour provided the President of the United States approves the repealing act.

Mr. MORGAN. I desire to hear the amendment reported.

The Secretary read the amendment.

Mr. EDMUNDS. I suggest to the Senator from Louisiana to add the words "and no longer."

Mr. EUSTIS. I accept that modification.

The PRESIDING OFFICER. The Senator from Louisiana modifies his amendment by adding the words "and no longer."

Mr. MORGAN. I should like to hear the amendment read as modified.

The PRESIDING OFFICER. The amendment will be reported as modified.

The SECRETARY. It is proposed to add as an additional section:

Sec. —. This act shall continue in force for the period of four years, and no longer, from and after its approval.

Mr. EDMUNDS. The words "and no longer" should come in at the end of the section.

Mr. MORGAN. The amendment, as read at the Clerk's desk, provides that the act shall continue in force four years, and not longer. Such a provision might be supposed to cut off Congress from the right of repeal before the expiration of that time; but I do not say that would be the effect of it. I hope the Senator from Louisiana will express his amendment in the precise language in which he intends to put it, that this act shall not continue in force longer than four years, rather than to say it is to continue four years and no longer. If put in that shape I will approve of it, for I regard this as a very dangerous provision. The country is in a state of great alarm about the yellow fever, because it felt so widely its devastations last fall, and we are in danger of doing something here, under the pressure of that apprehension or fear, that we may hereafter very seriously regret. This bill establishes a health bureau in the city of Washington for the purpose of taking charge of the health of the entire country in regard to epidemic diseases from abroad, and it is also to take in charge the spread of diseases from one locality of the United States to another. I have had but very little opportunity to examine the provisions of this bill, but, on what I might term a casual reading, it seems to me that there is something broad in its provisions. I should like to have the bill made as clear as possible, not merely for the preservation of the health of the country, but also for the preservation of the rights of property and the rights of commerce. It seems to me that when this measure is once put into force under the power of the Federal Government to supply the means from the Treasury

of the United States, it will very soon dwarf, if it will not entirely put out of existence, all the local power in reference to quarantine. Indeed, the bill scarcely contains a recognition of the right of local quarantine.

I need hardly call the attention of the Senate to the fact that the Federal courts and all the State courts in the maritime States, I believe, have hitherto decided that the power of quarantine is purely a matter of local jurisdiction. The States have that subject in charge, and it is certainly just to expect that the different States feel quite as much interest in protecting themselves against the introduction of contagious and infectious diseases as that the entire United States will do so, and that they will pursue methods as well calculated to exclude these diseases from access to our shores as any board of health that could be brought into organization within the District of Columbia.

The power which this board will draw to itself necessarily will, after a while, become very great, if not overwhelming, and we should, at all events, seek attentively to guard the measure in the inauguration of a scheme of this kind, which, as was remarked by the Senator from Vermont awhile ago, has not been established heretofore in the Government, although we have had very dangerous invasions of epidemic diseases from other countries. The subject really cannot be too well guarded. I find in the definition of the powers of this board of health a great deal of want of precision. It seems to me, if I rightly understand the bill, that after this board of health is organized it may then commence a process of legislation and the passage of laws, to which Congress will not be called on to give assent, in the form of sanitary regulations which may very seriously cripple, or at least interfere with, the commerce of different localities in the United States. The specification of precise powers and duties of this board of health in this bill, it seems to me, is very loosely stated. Almost no duties are imposed upon them except under the most general possible terms, and then they are enjoined to carry into execution all rules and regulations that may be adopted by this board of health and by its laws. Exactly where their powers begin and where they end I am not able to find in this bill. It seems to me that we ought to put some prohibition upon them in reference to the exercise of powers which are not expressly or by necessary implication named in this measure. I think that their powers are in their nature legislative and executive as they are conveyed in this bill.

Really, Mr. President, I should like to have more time to consider this measure. No one can suppose, of course, that I have not as much interest in the passage of a proper sanitary measure as any one else here, because the locality from which I come is almost every year to some extent affected by the invasion of yellow fever; and if it is within the competency of Congress, under the Constitution of the United States, to assist the people of my State in resisting its invasion, or in curing the disease after it finds a lodgment among us, I certainly feel not only as much interest but as much sympathy in reference to this question as any Senator here could possibly feel. At the same time I think there are some other interests to guard as well as the interests of health, and particularly I think it is our duty not to pass laws which may invade the Constitution of the United States in our effort to reach some remedy, through law, for the prevention of yellow fever or for its extermination when it has come among us.

The committee that has considered the question I know is an able one, and I know that it has devoted great attention to this subject; but I still know that among the enlightened medical men, in the Southern States at least, there is great diversity of opinion about the efficiency of any board that may be organized in reference to the prevention of yellow fever, or indeed of any infectious or epidemic diseases from abroad.

The medical faculty of the Southern States have had this subject under very serious consideration for some time, and I think I should be justified in saying that among my own acquaintances in that class of persons the majority of them would prefer that Congress should take no action upon the matter. I think I can state that.

There has always been more or less impression, however, coming from certain distinguished quarters in the medical profession, in favor of the organization of a great central medical board at Washington. The truth is that almost every interest in society desires to be represented in Washington City through a board. It seems to them that if they can only get a board here devoted to their own peculiar interests or purposes or callings, they will make a fair start in the world. It seems to me that the legislation of Congress ought to be directed rather to the repression of boards here than to the encouragement of them. I think we have several now that could be named that are almost entirely useless in their operations upon the general welfare of the country, but every year we are asked to provide an additional board of some kind to be located at Washington. With reference to the centralizing power of these organizations upon our General Government, there is encouragement in it of a disposition which is generally too manifest abroad in the land to come to Washington for relief against every possible adversity of life.

I really think that the Senate ought to give very mature consideration to this question. I should be glad if the honorable chairman of this committee would state before the Senate precisely what are to be the powers of this board. I should like to hear from the chairman, or from some member of the committee, a clear and succinct

statement of what are the powers of this board, for the provisions giving them powers are scattered about in different sections of the bill, and are not so compactly arranged one with reference to the other, that I have been able to comprehend exactly what the powers are. Therefore I should like to know how far we are going in conferring, if I may use the expression, legislative power upon the board, and how far we are going in giving to them discretionary authority, and then I should like to know something about how far we are going in support of this board in whatever it may undertake within the line of its jurisdiction and the range of its powers, for we may find ourselves involved in enormous expenditures here when those expenditures are not the legitimate result of the actual expression of Congress or the consent of Congress.

I must object to the exercise of these different powers in the way they are to be exercised, as the result of an encouragement contained in the bill of a latitudinarian construction of their own powers, whereby they can go to any place in the country, transact their business in their own way, meet when they please and where they please, to enact such regulations as are satisfactory to them to add to the health of the country, and after they have done all these things come here at last with deficiencies which may require our paying a great many hundreds of thousands of dollars for aught I know. I therefore hope that this one check which is offered by the Senator from Louisiana may at least receive the attention and respect of the Senate and that we shall not establish upon a permanent foundation this bureau of health, which may trouble us in the future very much to get rid of.

Mr. HARRIS. Let the question be taken on the amendment of the Senator from Louisiana.

Mr. EUSTIS. Mr. President, it is proper that I should explain the reason why I have offered this amendment. This legislation is purely experimental. For instance, after all these regulations are made and this central board of health is established, and vessels coming from infected ports are inspected, fumigated, disinfected, and all precautions are taken which are provided for by this bill, yet notwithstanding the operation of the bill yellow fever may be introduced, for instance, into the city of New Orleans. I think that would prove conclusively that this legislation is unnecessary. In other words, this disease may be indigenous, as some very eminent physicians assert that it is, and is not to be restricted to imported cases. I represent a State in which there is a city of very great commercial importance, and which unfortunately is a city where the yellow fever generally prevails as an epidemic. If you have this law, and it be a good law, by which it can be tested whether or not these regulations are sufficient to prevent the introduction of yellow fever into this country, it is a very easy matter to keep the law in force; but if the contrary should unfortunately be established it would be very difficult to repeal this law if the President of the United States should not consent to a repeal.

Mr. HARRIS. If the Senator from Louisiana will allow me, I desire to say to him and to the Senate that the only possible objection I can have to the amendment he offers is that I deem it wholly and entirely unnecessary. I am not authorized to speak for the committee in that respect, but I do not think any member of the committee will seriously object if the Senator from Louisiana deems it necessary to press his amendment; and in order to facilitate action I shall certainly offer no sort of opposition to the amendment. I deem it wholly unnecessary, but I have no objection to it.

Mr. EUSTIS. I was not anticipating any opposition to it, but was merely giving the reason why I offer it. I am perfectly willing that this experiment should be tried, but in case it should not produce the results which are anticipated, for one I wish to place this law in such a condition that it will expire by its own terms.

Mr. HILL. I wish simply to say that I do not like this bill. I do not like the creation of this new bureau; but still, regarding it as an experiment, I think that something ought to be done. I do not think any good will result from it myself. Nevertheless, I shall vote for it, because it is an experiment, and I take it as such.

Mr. KERNAN. It is well known that the States by State laws at the various ports have regulations by statute for health officers, and that they have quarantine laws; they also have hospitals to take care of the sick suffering from an infectious disease. How will this proposed law affect these local boards that are provided by the States? I want to read one clause, for I have not been able to devote time to this bill, and I read it now:

In case the health officer at any such port appointed by local authority shall refuse to adopt and observe the rules and regulations prescribed by the bureau of health for the inspection, disinfection, and treatment of vessels, their cargoes, passengers, and crews, or, in the opinion of the board of health, shall neglect or fail so to do, it shall be the duty of the Secretary of the Treasury to appoint a health officer of the United States for said port who shall perform the duties thereof, as prescribed by said bureau of health, according to the rules and regulations as prescribed by the board of health, as provided by the second section of this act.

In other words, the rules and orders of this board at Washington would render it impossible for these local officers to comply with the statutes of their States, I fear, in many cases. I desire to direct attention to it, for I have not been able to read the bill all through; but I know we have had at the port of New York, going through all the century, a health officer appointed by the governor and confirmed by the senate of the State, and a code of statutes in reference to the

duties of the various officers and in reference to all our quarantine regulations.

Mr. EDMUNDS. The Senator cannot fail to see that this will wipe all that out, as an inconsistent regulation.

Mr. KERNAN. I want to hear what may be the explanation.

Mr. HARRIS. So far from wiping out a single quarantine regulation adopted by any State, this bill is not intended to interfere with any law or quarantine regulation adopted by any State, or any machinery of the State looking in that direction. The bill proposes to adopt certain rules and regulations as to the sanitary measures to be observed by vessels sailing from infected ports to an American port. The bill requires that the quarantine officers or health officers of the States shall be authorized to execute this act, and the rules and regulations that may be made under it; but if the State officers shall fail or refuse to execute it, then it is made the duty of the Secretary of the Treasury to appoint an officer, whose duty it shall be to see that the rules and regulations adopted under this act and this act itself shall be enforced, and when enforced the rules and regulations of the State are left intact. The State officers may content themselves with the performance upon the part of the Federal officer in the execution of the rules and regulations adopted by the Federal Government, if they see proper so to do, or they may go on and enforce every rule and every regulation that the State itself had adopted for its own security.

Mr. EDMUNDS. The result of that would be, as stated by the Senator from Tennessee, that there would be in force two distinct systems of quarantine regulations, two distinct systems of health laws, in all external ports; and it may be added, under this bill, in respect of all States, internally as well. Therefore, to take the external question first, if the city of New York under the laws of its State has a system of health regulation and inspection, which by the Constitution it may lawfully have until Congress interferes, (I do not deny the power of Congress to interfere as to people coming into the United States,) and when Congress does interfere under the Constitution and exerts the power that this bill provides for, whether it be the same power or a different power, then I ask the honorable Senator from Tennessee whether the State law is not at once suspended and superseded, or whether it is like the case of counterfeiting? It is possible to have two systems in force at the same time in the case of counterfeiting. It is admitted that a State may punish a counterfeiter, and the United States may, because the Supreme Court has so decided. It is rather a singular state of things, but I take that to be the law.

Now then, there being local health laws in the State of New York, and the very best that I have any knowledge of, and enforced in the very best way that I have any knowledge of, it is proposed to make a national system. The question I wish to submit to the Senator from Tennessee is whether or not by the mere force of this act, whether the provisions of this act are consistent or inconsistent with the health laws of the State of New York, those health laws will be entirely superseded as soon as this act is enforced, as a mere matter of law.

Mr. HARRIS. This bill proposes to so regulate commerce as to prevent the importation of contagious or infectious diseases from foreign countries into the United States, or from one State to another. It is wholly independent of any State regulation. Within its scope I suppose it will be paramount law, but there is nothing in this proposed act that is intended to prevent, or in my judgment can prevent, any State from adopting any additional regulation wholly independent, operating within the limits of its jurisdiction.

I have no question at all about the power of a State to adopt any quarantine or any sanitary regulations that it may seem proper to adopt. Then both would be in force, and both would be in operation. That is my own opinion in regard to it.

Mr. EDMUNDS. If that is the law it is all right; but I very much doubt whether that is the law.

Mr. KERNAN. But is there not this danger: suppose this bureau is located at Washington, and Massachusetts has another in the harbor of Boston entirely different. The regulations of the board in Washington are expected by the very language of the bill to annul the other. What I fear is, and I do not say it with any disposition to impede or obstruct anything that is thought wise, that this new board created here at Washington will really absorb all the regulations as to health at the ports of the country. In my judgment there is great danger that instead of having what has been built up by experience for years in one of the States which has an important port, like New York, where the health of a million people depends upon wise and efficacious regulations, this new experiment will annul all that and fail to give us as good a system as they have built up in the ports of the States by experience. You will observe that if the board here adopt regulations contrary to the statutes of New York, if this is paramount, as the Senator from Vermont said, it wipes out that system, those statutes; and the local health officers who are appointed under those State laws, and appointed to enforce them, cannot, it seems to me, act in harmony with this other system, which may be different from the one which they believe to be the best.

While I have every desire to aid in guarding the ports of the country from infectious diseases, yet my judgment, uninstructed, as it is now from any considerable examination, is that the States had better themselves take charge of and enforce health regulations and

quarantine laws, each locality in its local line being able to judge from experience what is best and wisest; and I fear in creating a bureau at Washington, far away from all the ports, we shall not have any system that will be good if the one here is made paramount, as it seems to be by this bill.

Mr. HOAR. I desire to ask the attention of the Senator from Tennessee in regard to the very point the Senator from New York has just made. By the law of Massachusetts the board of health of the city of Boston establishes quarantine regulations. When a vessel from an infected port, indeed from any port, comes into Boston, a certain examination is had by a health officer. If it comes from an infected port, certain quarantine regulations must be complied with; a certain examination of every passenger and seaman on board is made, and a permit is obtained for those passengers and seamen from that officer. For certain causes they are to be removed to a public hospital, and there is a penalty fixed by law for a violation of these quarantine regulations. Now this bill provides that this board of health shall do if not the same yet a similar thing. A permit is to be obtained from this board. I understand that in regard to those classes of jurisdiction which are concurrent, like the bankruptcy jurisdiction, like this very matter of the regulation of commerce, in certain particulars, the States have the constitutional right to make regulations until Congress has acted; but when Congress has acted and has enacted laws within its jurisdiction, then the system of law which it enacts becomes exclusive and not concurrent, and all State laws are swept away by that enactment just as a State insolvent law is swept away by a bankruptcy law.

My question to the Senator from Tennessee is this: if a vessel from Havana comes into the port of Boston, and the Massachusetts health officer boards her and demands that some of her seamen shall be taken to the hospital which we have provided for the purpose, that the rest of them shall submit to an examination, that the vessel shall submit to a delay, yet the vessel breaking through that authority goes on into port and lands its passengers, and the master of the vessel is indicted under the Massachusetts statute for a violation of her health law, would it not be a perfect answer to that indictment to call the attention of the court to this law, and to say that the vessel got a permit under it, or even without saying that, which would make it still stronger, if they would say that they got a permit under it to go on into the harbor? If that be untrue, I wish the Senator from Tennessee would tell us why that would not be a sound defense, and whether he would not advise a plan that would give defense? If it be true, then the committee who framed this bill desire to supersede the health and quarantine laws of Boston and New York by this bill.

Mr. LAMAR. Mr. President, I do not think that the case which the Senator from Massachusetts put is at all conclusive as to the effect of this legislation. The point which he makes is that this legislation supersedes the laws of Massachusetts and Boston requiring a permit to certain vessels coming in under certain regulations. I think not. This legislation simply requires that unless the regulations prescribed in this bill are complied with the vessel shall not come in; but it does not by any means say that a compliance with it entitles her to come in without the permit which the local authorities may require. I differ from the Senator in his position that this legislation being upon the same subject sweeps away State laws. There are many subjects upon which Federal and State authorities concurrently legislate. One of them is upon the subject of direct taxation, for instance. Under the Constitution Congress has the power to lay and collect direct taxes. But, sir, would the adoption of a system of direct taxation by Congress supersede the tax laws imposed by the several State Legislatures upon their respective populations? Would it supersede the machinery established by those laws for the collection of their own taxes?

Mr. HOAR. Will the Senator from Mississippi permit me to call his attention to a point right there? The Massachusetts health laws establish for the port of Boston and for other ports a particular and special quarantine station, to which a vessel may be ordered by the Boston board of health to repair, and where its men and passengers may be disembarked and ordered into a hospital, and they are subject to a penalty if they do not go. Under this bill the United States authorities are to establish a quarantine station and order the vessel to repair to that at the same time and for the same cause. How can it fail to be true that one or the other of those directions is of exclusive authority?

Mr. LAMAR. Will the Senator point me out that particular provision?

Mr. HOAR. Yes, sir; it is in the sixth section.

Mr. LAMAR. Will the Senator read it?

Mr. HOAR. The sixth section provides that the director-general of health shall issue the rules and regulations framed by the board of health and approved by the President—

And also such other rules and regulations which shall be observed in the inspection of the same, on the arrival thereof at any quarantine station at the port of destination, and for the disinfection and isolation of the same—

A rule ordering a vessel to repair into isolation is a rule ordering it certainly to a quarantine station; it is another name for the same thing—

and it shall not be lawful for any vessel to enter said port to discharge its cargo or land its passengers except upon a permit from the health officer at such quarantine station, certifying that said rules and regulations have in all respects been observed, &c.

Mr. LAMAR. In other words, it prescribes that it shall not be lawful for the vessel to go in without conforming to these regulations, but it does not negative any of the regulations of the authorities of the State of Massachusetts at the port of Boston. It does not say that this vessel shall not go to the quarantine which the Boston authorities may order. It supersedes no law, no officer, and no authority upon the subject of quarantine under the legislation of Massachusetts. It is simply supplementary, making additional regulations where they may be additional, and providing for using the machinery that the State authorities have already furnished, so long as such State authorities consent that it may be so used, and no longer.

Mr. MATTHEWS. I desire to make one additional observation. The point made by the Senator from Vermont and the Senator from Massachusetts, as I understand it, is that whenever Congress exerts its power over quarantine regulations, no matter in what way, to what extent, in what degree, from the mere fact that it begins to exercise that power, it necessarily covers the entire area of power to the exclusion of all State jurisdiction, so as to have the effect that by the mere passage of an act of Congress on the subject of quarantine, that at one fell blow destroys all quarantine establishments under local authority. If that be right, then there has not been any lawful quarantine in this country under State authority since 1793.

Mr. HOAR. That is not the point I make.

Mr. MATTHEWS. Well, that is the point made by the Senator from Vermont, [Mr. EDMUNDS.]

Mr. HOAR. The point I make, if the Senator will permit me, is that when the national authority has established a rule of conduct under particular circumstances for the commerce, passengers, or seamen coming from abroad, then every rule of conduct under those circumstances prescribed by a State, certainly every rule inconsistent with the first, is abolished.

Mr. MATTHEWS. That position was fully answered by the Senator from Mississippi [Mr. LAMAR] when he said that upon the frame of this bill these regulations were to be in addition to, and not in substitution of, the State regulations. The other position is that the mere act of legislating on the subject excludes the legislation of the State. If so, Congress excluded all State legislation on this subject in 1793.

Mr. EDMUNDS. Let us see whether it did. Here is the act, which was 1799 instead of 1793.

Mr. MATTHEWS. Seventeen hundred and ninety-nine.

Mr. EDMUNDS. But I admit that the difference of six years would not change the constitutional question. The act of 1799 provided that—

The quarantines and other restraints established by the health laws of any State, respecting any vessels arriving in, or bound to, any port or district thereof, shall be only observed by the officers of the customs-revenue of the United States, by the masters and crews of the several revenue-cutters, and by the military officers commanding in any port or station upon the sea-coast; and all such officers of the United States shall faithfully aid in the execution of such quarantine and health laws, according to their respective powers and within their respective precincts, and as they shall be directed from time to time by the Secretary of the Treasury. But nothing in this title shall enable any State to collect a duty of tonnage or impost without the consent of Congress.

Then the next section provided for the discharge of the cargo of vessels in quarantine in the custom-house; that is, that they should conform to the State laws as to time, &c., so as to be sure of disinfection. Then the next was for the erection of quarantine warehouses pursuant to the laws of the States; and the next section was in aid of the same thing. Then the next was for the removal of revenue officers from ports where contagious diseases exist, that they might remove the scene of their duties to some safer place; and that is all, except the removal of the public offices from the capital in case of contagious diseases here, by order of the President, and the adjournment of the courts in the same cases; and the last section is as to the removal of prisoners. That is the whole law of the United States upon the subject as it is solidified in the Revised Statutes of the United States.

The committee can no doubt tell us what have been the decisions of the Supreme Court upon this and the analogous question of pilotage laws, &c., so as to let the Senate see whether this legislation does not go a little further than the Senator from Massachusetts has gone, although as far as he has gone I think it perfectly clear; but going a little further than that is it not settled that when the United States chooses to adopt a system of external quarantine, saying nothing now of the interstate question, that fact *ipso facto* makes the law of the United States the paramount law, and a law which if obeyed will supersede any duty of obedience to any State law? I think it will, Mr. President, without having had the opportunity recently to consult such decisions as have been made that bear upon the subject. It may be that I am wrong; but it is only the fair thing in this discussion to call the attention of the committee to it, so that the Senate may vote with its eyes open to the danger of the step that it is taking in respect of what will turn out to be the law when this comes to be tried in some court.

Mr. MATTHEWS. It appears by the statute of 1799, as read by the Senator from Vermont, that the original and primary act of national legislation on this subject of quarantine was one to recognize and to assist in the enforcement of the State regulations on that subject.

Mr. EDMUNDS. By commanding obedience to them.

Mr. MATTHEWS. By adopting them.

Mr. EDMUNDS. No, sir.

Mr. MATTHEWS. How did they become laws to which the officers of the United States were subject, except by being made such by the acts of Congress which alone could command the obedience of Federal officers? In precise analogy with the spirit of that act, the present proposition of law is to leave all the local systems of quarantine entirely untouched, but to superadd to them such additional rules and regulations as in the opinion of a national board of health may be deemed proper to supplement them and make them more efficient and powerful as agents in the prevention of the introduction of contagious and epidemic diseases. Thus the two systems will remain together side by side, without any necessary conflict whatever, it being necessary under the provisions of this bill, if it become a law, that a ship seeking to enter a port should be compelled to observe the regulations prescribed by the national act as well as the regulations prescribed by the local act of quarantine; and that is all.

Mr. EDMUNDS. The difference, in my humble judgment—but of course I am wrong, as I differ from the Senator from Ohio—is this: the act of 1799 did not undertake to establish any regulation whatever in respect of health, but it said to the officers of customs and the military officers, "In the discharge of your duties in collecting the revenue and in holding your fort you shall render obedience to the State law of health, without regard to what otherwise your duty might be," just as it would say to a military officer in any one of the States or to a customs officer "In doing your duties you shall conform to the other laws of the State and respect its internal police; you shall obey the law about traveling on Sunday," to take a very remote illustration, but one that illustrates the principle; and yet it would not do to say that a man could be indicted under an act of Congress for traveling on Sunday because he had merely been told that he should obey the State laws and should be liable to the punishments of them if he did not. That is all. It merely says that the execution of the customs laws of the United States and the military laws shall not exempt our officers in either branch of the public service from compliance with the police laws of the State where they are in respect to the preservation of the health of the citizens of that State.

Mr. HARRIS. If the Senator from Vermont will allow me—

Mr. EDMUNDS. With pleasure.

Mr. HARRIS. If he and the Senator from Massachusetts think there is danger of this bill as it now stands superseding or impairing any sanitary or quarantine law or regulation of any State, there will be no objection to a proviso saying that nothing in this act shall be so construed as to supersede or impair any such law or regulation.

Mr. EDMUNDS. But what may be the effect of that? I should not venture to offer any amendment except to strike out what I proposed about the District of Columbia, which I think the Senators will yet be willing to assent to. I shall not venture to offer any amendment; but what the Senator from Tennessee suggests might be equivalent to declaring that this act of Congress should not take effect at all, because it goes back to the ultimate question of whether the two jurisdictions can exert themselves at the same time upon the same subject.

Now, in respect of the bankrupt and insolvent laws, it has been settled over and over again that a State insolvent law is a perfectly valid and constitutional law until Congress passes a bankrupt act. When it does, although it does not say a word about the State insolvent laws, it supersedes them. Now, suppose you added to a bankrupt act a provision that it should not disturb any insolvent laws of a State, how would the courts construe an act of that kind? How would they hold upon it? Is it at all certain that they would not hold that the act of Congress was either entirely inefficient, to borrow a phrase from the law of wills, or else that notwithstanding that provision, from necessity it superseded the State law because the two systems could not coexist at the same time.

Mr. MORGAN. Mr. President, this debate shows that we are dealing with a subject where there may be a conflict between State and Federal authority. I am inclined to think the power to care for the health of its citizens is a State power. The Government of the United States does not possess that power. Now, I think an examination of the sixth section of this bill in connection with the seventh section will show that the whole legislation of the United States Government on subjects kindred to this is reversed by this action. The sixth section provides:

SEC. 6. The Director-General of Health shall, from time to time, issue to the consular officers of the United States, and to the medical officer serving at the port of Havana, and otherwise make publicly known, in such manner as shall be therein prescribed, the rules and regulations framed by the board of health and approved by the President, to be used and complied with by vessels in foreign ports, for disinfecting such vessels, their cargoes, passengers, and crew, before their departure for any port in the United States, and in the course of the voyage; and also such other rules and regulations which shall be observed in the inspection of the same, on the arrival thereof at any quarantine station at the port of destination, and for the disinfection and isolation of the same, and the treatment of cargo and persons on board, so as to prevent the spread of cholera, yellow fever, or other contagious or infectious disease; and it shall not be lawful for any vessel to enter said port, to discharge its cargo, or land its passengers, except upon a permit from the health officer at such quarantine station, certifying that said rules and regulations have in all respects been observed and complied with, as well on his part as on the part of the said vessel and its master, in respect to the same, and to its cargo, passengers, and crew—

A vessel coming from abroad is not permitted to land unless it shall

first comply with this regulation, so as to satisfy the inquiry of the health officer at that port—

and the master of every such vessel shall produce and deliver to the collector of customs at said port of entry, together with the other papers of the vessel, the said certificates required to be obtained at the port of departure, and the permit and certificate herein required to be obtained from the health officer at the port of entry. In case the health officer at any such port appointed by local authority shall refuse to adopt and observe the rules and regulations prescribed by the bureau of health for the inspection, disinfection, and treatment of vessels, their cargoes, passengers, and crews, or, in the opinion of the board of health, shall neglect or fail so to do, it shall be the duty of the Secretary of the Treasury to appoint a health officer of the United States for said port, who shall perform the duties thereof, as prescribed by said bureau of health, according to the rules and regulations as prescribed by the board of health, as provided by the second section of this act; and to provide for the salary of such health officer and the necessary expenses of his office, the collector of customs at said port shall demand and collect from every such vessel a fee of \$6.50.

Here it will be seen that if the State health officer at the port of New York, believing that he had a better system of quarantine than the United States Government through its board of health has adopted, believing it to be more efficient than the one established by the authority of this board here in Washington, should undertake to say to a ship, "You cannot enter here unless you comply with certain other regulations; we consider that these regulations and this test of inspection are not sufficient to authorize your vessel to enter this port," and if he should prove to be obstinate in regard to a matter of that kind, desiring to protect his own port against an infection, he is to be removed because he does not comply with the regulations established here at Washington, and his place is to be supplied by a health officer of the United States, paid a salary to be collected by a tax levied upon every ship that may enter the port. If the Government of the United States may place thus at the port of New York an officer who may disregard all the regulations of the State authorities, and may allow ships to come in under regulations that are less stringent than those imposed by the health laws of the State of New York, is it not obvious that under those circumstances the entire authority of the State of New York will be superseded and the authority of the Government of the United States placed in its stead? You give this board or bureau a power to remove from office and to remove from all authority over the subject of quarantine the health officers of any State of this Union, and in place of the judgment of such a health officer and of the board by which he may be surrounded you substitute a health officer of the United States Government and the regulations prescribed by the central board of health in Washington City. It does seem to me that that entirely supersedes by the very frame of this bill, by the provisions of the act itself, all authority of the State governments to ward off or protect their ports against infectious disease.

The seventh section says:

That rules and regulations framed and approved as hereinbefore authorized shall be promulgated, &c.

That promulgation and the establishment of these rules under other provisions of this act give to them the force and effect of a law of the United States, or at least I suppose that was the intention of the bill; so that these regulations become laws of the United States, having all the supremacy and authority that laws enacted by Congress can have, and these laws are to be executed at the various ports according to the direction of the board of health in Washington City, and if the State officers do not obey they are to be removed and their places supplied by officers of the United States Government, who will go on and execute—what? Not the State laws of quarantine, for as some gentlemen say they are not bound by them, but execute the laws of quarantine prescribed by the central board at Washington. Unless I mistake the terms of this bill I cannot conceive how there could be a more clear exercise of exclusive power on the part of Congress over quarantine than this appears to be.

I desire to support this bill or any measure, as I stated before, that I can support for the accomplishment of the great object in view; but really it seems to me that the bill does not fill the idea which some Senators have advanced here this evening of a co-ordinate exercise of power in the ports of the country on the part of the United States Government and on the part of the State governments. It seems to me that the jurisdiction which is to be exercised under this act and enforced through United States officers is an exclusive jurisdiction, not merely in its nature, but also exclusive by the very provisions which you enact that officers of the United States Government shall take charge of the ports, and shall decide according to regulations to be adopted here what are the proper processes of disinfection or on what conditions a ship may be allowed to enter any port whatever.

I suppose, Mr. President, amendments are in order to any part of this bill.

The PRESIDING OFFICER. (Mr. CAMERON, of Wisconsin, in the chair.) There is a pending amendment. The question will first be taken on that.

Mr. EATON. Gentlemen here differ in their view of the power to make an enactment which gives general direction to this board of health. Now, if I read this bill aright it is an absolute power of control in so many words, or, to use the expression of the honorable Senator from Vermont, in certain contingencies it absolutely sweeps away everything that has been done by any State authority. I think I shall be able to show that in a moment.

Here is New York with its vast surroundings, a population of two million people in the city and its suburbs; they have a system which has been growing nearly a hundred years, just what is required by that people; and now what do we propose to do? Let me see if I am right. I read from page 7:

In the case the health officer at any such port appointed by local authority shall refuse to adopt and observe the rules and regulations prescribed by the bureau of health—

Which is spoken of before in this same section—

for the inspection, disinfection, and treatment of vessels, their cargoes, passengers, and crews, or, in the opinion of the board of health, shall neglect or fail so to do, it shall be the duty of the Secretary of the Treasury to appoint a health officer of the United States for said port, who shall perform the duties thereof, as prescribed by said bureau of health.

What does that mean? If it means anything, it means that this central board of health in Washington shall have the power to prescribe certain rules and regulations; they shall say to the New York officers of quarantine, "You must adopt these rules." "But," say these experienced gentlemen at New York, "you are entirely wrong; you do not understand this business; you have just been appointed, gentlemen, to the office, and you desire to show your little brief authority over us. Now, we decline; we do not like your rules or your regulations, and we decline to adopt them." Then comes in the power of this statute; then comes in the power of the United States, and then every officer at the port of New York, with its two million people subject to have these diseases introduced into their midst, is necessarily thrown entirely out of work, and a health officer is to be appointed from the Department here in Washington, who has no experience whatever, and goes there and assumes the entire control of the health of that vast body of people.

It seems to me, Mr. President, that we are legislating in haste here in legislating in this way. There has been a terrible scourge over our southern section; there has been great suffering, great loss of life; but let us be very careful that we do not legislate because of that to the manifest injury of a system that has been growing up for a hundred years.

Mr. LAMAR. Mr. President, this bill does not provide for the removal of any State officer whatever; it says nothing of the kind. The provision is simply this: that if the State officer, in enforcing the regulations of his own State law, declines to enforce the provisions of this bill also, some other person shall do it after that; he shall not supersede that officer in the discharge of his duty; he shall not impair a single State regulation, a single State law of any kind whatever. It leaves the entire system of machinery of State quarantine unimpaired and in full force.

Now, sir, there is nothing in this bill which threatens to overshadow State rights in any respect whatever; it is a simple experiment for the purpose of averting, if possible, a great impending calamity which has visited a large section of country, the devastations of which are greater than any wrought in the same period of time by the war, and which no local power that the States with all their authority are able to exert can avoid or even mitigate.

Mr. EATON. I fear, Mr. President, no Federal power will be able to check absolutely the spread of disease; but I cannot agree with my esteemed friend from Mississippi. I read this bill differently from him. In the first place, the power is given to this board of officers at Washington to determine the rules and regulations. That power is given by the bill. About that no one can entertain a doubt. Very well. If these new people—I call them new people, for they are inexperienced—say to the State officers in New York or Boston, "You must adopt these rules and regulations," and if they decline to adopt them my friend from Mississippi says they are not superseded. Ah, that is rather a play upon words; their duties are taken from them, and an officer is sent from headquarters in Washington to take charge of their business.

Mr. HOAR. Mr. President, I desire to put to the Senator from Mississippi an illustration which grows out of the express language of this bill and of the general statutes of Massachusetts. This bill provides that when a vessel from an infected port or with disease on board arrives at an American port the United States officers shall give instructions for the treatment of the persons on board so as to stop the disease and prevent its spread. In other words, they are to prescribe a course of diet and a course of medicine. Now, the Massachusetts statute provides that under the same circumstances the board of health of the city of Boston shall take these persons, passengers and crew, to a hospital, there to remain under their orders; that is, they are to prescribe to them by the local authority a course of medicine and a course of diet.

Now, the honorable Senator from Ohio and the honorable Senator from Mississippi say that when the United States authority has prescribed what shall be a man's food and what course of medicine he shall take when he has got a particular disease, and if the city of Boston has prescribed precisely the same thing at the same time, neither jurisdiction is exclusive, but both are concurrent. In other words, the sick sailors shall eat the food and take the medicine administered by the doctors of Boston, and then shall take the food and swallow the medicine prescribed by the doctors of the United States.

Mr. MATTHEWS. Now, if the Senator from Massachusetts will allow me just for a moment, I will say to him that he misapprehends the legislation in this particular. The proposition in the bill is that the United States authorities shall get hold of the sick sailors

first and physic them to their heart's content, and then when they have got through Boston can take them and do what it pleases. [Laughter.]

Mr. HOAR. I rather think, Mr. President, that the sailor himself might have a little voice in the constitutional interpretation which made both these processes go on at the same time.

Mr. HARRIS. Would it not be safe for the sailor to trust to the forbearance of Boston after the United States authority had got through with him?

Mr. HOAR. I do not know. The forbearance of a doctor with a theory is not always to be trusted.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Louisiana, [Mr. EUSTIS.]

Mr. MERRIMON. Let it be reported.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. The amendment is at the end of the bill to add SEC. 9. This act shall continue in force no longer than the period of four years from and after its approval.

The amendment was agreed to.

Mr. MORGAN. I propose to amend in section 3, lines 9 and 10, by striking out the words "acts and measures" and inserting "laws;" so as to read:

And said bureau is charged with the execution of the provisions of this and all other laws to prevent the introduction of contagious or infectious diseases into the United States.

The words "acts and measures" there I suppose were intended to convey the same signification as the word "laws," for "acts and measures" mean nothing in legal parlance unless they mean laws. I submit that amendment.

Mr. HARRIS. There is no objection to the amendment suggested by the Senator from Alabama.

The amendment was agreed to.

Mr. MORGAN. I suggest another change. In line 12, of the same section, instead of the words "lawfully established"—I move to strike out "lawfully" and insert after "established" the words "by law;" so as to read:

And the enforcement of all quarantine regulations established by law under the authority of the United States.

That I understand is also accepted.

The amendment was agreed to.

Mr. MORGAN. On page 5, section 4, line 7, after the word "thereof," I move to strike out the words "and applicable thereto."

The amendment was agreed to.

Mr. GARLAND. Will the Secretary report how that clause stands now?

The PRESIDING OFFICER. The Secretary will report.

The SECRETARY. In section 4, line 7, after the word "thereof," it is proposed to strike out the words "and applicable thereto;" so as to read:

And all rules and regulations made in pursuance thereof, and any such vessel which shall enter or attempt to enter a port of the United States in violation thereof shall forfeit to the United States a sum, &c.

Mr. MORGAN. I have another amendment to offer, to come in after the words "Secretary of the Treasury," on line 19, section 2:

Said board shall personally visit all places where infectious or contagious diseases shall have become epidemic during the prevalence of an epidemic, and shall remain in such places except when imperatively required elsewhere.

The purpose of the amendment is twofold. First, to prevent a too great number of physicians and officers; and secondly, to require them to go to those places where they can study these diseases and where they can have some personal experience in their treatment. It would also suggest, I think, that men who have become acclimated and have become inured to the yellow fever should be selected to deal with such matters; and so in reference to other contagions and contagious diseases, as small-pox. I think that would be a wholesome provision, and I propose to insert it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Alabama.

The question being put, there were, on a division—ayes 14, noes 8; no quorum voting.

Mr. KIRKWOOD. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. GARLAND. I wish to ask the Senator from Alabama if really all that is contained in his amendment is not provided for by the previous portion of the bill which I will read:

And shall make, or cause to be made, by members of their own body, such special examinations and investigations at any place or places within the United States as they may order.

I do not know that I have any objection to the amendment of the Senator from Alabama; but it seems to me this provision of the bill covers the point he aims at.

Mr. MORGAN. I think the bill as it stands does not meet the point. I would require these officers to go where the disease exists and there witness the practical workings of the system and learn by experience. It is one of the very best provisions we can put on the bill to require them to go where an epidemic disease is prevalent and to remain there during the prevalence of the disease.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Alabama, upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. MITCHELL, (when his name was called.) On this bill I am paired with the Senator from South Carolina, [Mr. PATTERSON.] I refrain from voting. I do not know how he would vote on this particular question.

Mr. SAUNDERS, (when his name was called.) I am paired on this question with the Senator from Florida, [Mr. CONOVER.]

The roll-call was concluded.

Mr. HAMLIN. I am paired on all questions connected with this bill with the Senator from Pennsylvania, [Mr. WALLACE,] and therefore am not able to vote.

Mr. MITCHELL. In order to make a quorum I will vote as I understand Senator PATTERSON would vote if he were here. I vote "nay."

The result was announced—yeas 14, nays 25; as follows:

YEAS—14.

Booth,	Eustis,	McMillan,	Rollins,
Cameron of Wis.,	Ferry,	Morgan,	Windom.
Coke,	Hoar,	Oglesby,	
Edmunds,	Jones of Florida,	Plumb,	

NAYS—25.

Allison,	Garland,	McDonald,	Shields,
Bailey,	Gordon,	Matthews,	Spencer,
Beck,	Harris,	Merrimon,	Teller,
Butler,	HEL,	Mitchell,	Voorhees.
Cameron of Pa.,	Kernan,	Morrill,	
Davis of Illinois,	Kirkwood,	Paddock,	
Eaton,	Lamar,	Ransom,	

ABSENT—37.

Anthony,	Conover,	Johnston,	Saunders,
Barnum,	Davis of W. Va.,	Jones of Nevada,	Sharon,
Bayard,	Dawes,	Kellogg,	Thurman,
Blaine,	Dennis,	McCreery,	Wadleigh,
Bruce,	Dorsey,	McPherson,	Wallace,
Burnside,	Grover,	Maxey,	Whyte,
Chaffee,	Hamlin,	Patterson,	Withers.
Chandler,	Hereford,	Randolph,	
Cockrell,	Howe,	Sargent,	
Conkling,	Ingalls,	Saulsbury,	

So the amendment was rejected.

Mr. KERNAN. In section 6, line 28, I move to strike out, leaving the last word of that line in, down to and including the word "do," in line 34; and I ask the Secretary to read what I propose to strike out. I suggest if this meets the approval of the Senate they can then amend the rest of the section to conform to it.

The PRESIDING OFFICER. The words proposed to be stricken out will be read.

The SECRETARY. On page 7, after the word "entry," in line 28 of section 6, it is proposed to strike out the following:

In case the health officer at any such port appointed by local authority shall refuse to adopt and observe the rules and regulations prescribed by the bureau of health for the inspection, disinfection, and treatment of vessels, their cargoes, passengers, and crews, or, in the opinion of the board of health, shall neglect or fail so to do.

Mr. KERNAN. My object is to strike out that clause so that this shall not, as I think it does in terms, in a certain contingency, abrogate the health officers of the various ports and their State rules and regulations. If this is stricken out we possibly may make this bill work in connection with State laws and boards to some extent. I hope the clause will be stricken out.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from New York.

The question being put, the ayes were 8—

Mr. KERNAN. I withdraw the amendment if there is danger of no quorum; but certainly I shall have to vote against the bill if this clause is in. I do not want to embarrass it, but thought it might be made stronger by striking out this clause and amending the rest of it. I have done my duty.

The PRESIDING OFFICER. Does the Senator from New York withdraw the amendment?

Mr. KERNAN. I withdraw the call for a division.

Mr. EDMUNDS. Then we are left just as we were before. If the Senator does not withdraw his amendment, we must vote upon it.

Mr. KERNAN. I withdraw the amendment. It is not acceptable to the friends of the bill and therefore I withdraw it.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. EDMUNDS. I move to strike out the first two lines and three words in line 3 of section 3, page 3, that read:

That the bureau of health shall be charged with the supervision of all matters connected with the Marine Hospital Service.

I make that motion in order to leave as it is the Marine Hospital Service, which is entirely regulated under the Treasury Department and well now. It has not anything to do with this bill that I can perceive.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Vermont.

The question being put, there were on a division—ayes 13, noes 11, no quorum voting.

Mr. BECK. I move a call of the Senate for the purpose of ordering the Sergeant-at-Arms to bring absent Senators here. If we cannot get Senators here to transact business, we had as well give it up.

Mr. EDMUNDS. I believe the rule requires when the fact of a quorum not being present is disclosed, that the Chair shall direct the Secretary to call the roll.

The PRESIDING OFFICER. The Chair shall direct the roll of Senators to be called, says the rule.

Mr. HOAR, (at eight o'clock and fifteen minutes p. m.) Mr. President, I move an adjournment.

The PRESIDING OFFICER. The Senator from Massachusetts moves that the Senate do now adjourn.

Mr. BECK. I move a call of the Senate to begin with.

Mr. HOAR. The motion is not in order until the motion to adjourn is disposed of.

The PRESIDING OFFICER. The first question is on the motion that the Senate do now adjourn.

The motion was not agreed to.

The PRESIDING OFFICER. The Secretary will now call the roll of Senators.

The Secretary proceeded to call the roll; and the following Senators answered to their names:

Allison,	Eaton,	Kernan,	Paddock,
Beck,	Edmunds,	Kirkwood,	Plumb,
Booth,	Ferry,	Lamar,	Rollins,
Bruce,	Garland,	McDonald,	Saunders,
Butler,	Gordon,	Matthews,	Teller,
Cameron of Pa.,	Harris,	Merrimon,	Voorhees,
Cameron of Wis.,	Hill,	Mitchell,	Wadleigh,
Cockrell,	Hoar,	Morgan,	Windom.
Davis of W. Va.,	Jones of Florida,	Oglesby,	

Mr. MERRIMON. I desire to say on behalf of my colleague that he is engaged in the Capitol somewhere on a committee, I think upon the Committee on Commerce.

The PRESIDING OFFICER. Thirty-five Senators have answered to their names.

Mr. BECK. I move, under the rule—

Mr. COKE. I wish to answer to my name as present.

Mr. FERRY. My colleague [Mr. CHANDLER] is paired with the Senator from Delaware, [Mr. BAYARD.]

Mr. McMILLAN. I am here.

Mr. EDMUNDS. Too late. Let us have order, Mr. President. We cannot understand what is going on.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BECK. Mr. President, the rule of the Senate reads thus—

Mr. EDMUNDS. Debate is not in order.

Mr. BECK. The rule reads:

No Senator shall absent himself from the service of the Senate without leave of the Senate first obtained. Whenever it shall be ascertained that a quorum is not present, a majority of the Senators present, may direct the Sergeant-at-Arms to request, and, when necessary, to compel the attendance of the absent Senators, which order shall be determined without debate.

My motion is, that whereas only six days of this session remain, and several important appropriation bills not yet disposed of, the Sergeant-at-Arms be directed to compel the attendance of absent Senators.

Mr. EDMUNDS. I ask that that be reduced to writing, Mr. President. I believe the rules require that to be done on the request of any Senator.

The PRESIDING OFFICER. The Senator from Kentucky will reduce his motion to writing.

Mr. BECK. I will.

Mr. INGALLS. I am here.

Mr. HOAR. I rise to a question of order. I understand that when a call of the Senate takes place it is the duty of the Clerk to read the list of those Senators who have answered to their names and to call the absentees. The Senate cannot know who are absent otherwise. That has not been done.

Mr. EDMUNDS. Debate is not in order.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kentucky.

Mr. HOAR. I ask for a decision on the question of order. I demand that the list of Senators who have answered be read and the absentees called.

Mr. EDMUNDS. That cannot be done while the Senator from Kentucky is making a motion.

Mr. HOAR. The Senator's motion is not in order until that has been done.

The PRESIDING OFFICER. The Chair will inform the Senator from Massachusetts that the list was read.

Mr. HOAR. But the absentees have not been called.

The PRESIDING OFFICER. The rule does not require that they should be.

Mr. COCKRELL. I offer as a substitute for the resolution of the Senator from Kentucky that the Sergeant-at-Arms be required to compel the attendance of absent Senators.

Mr. EDMUNDS. That is not in order now. We must hear the motion of the Senator from Kentucky first.

Mr. BECK. I have reduced it to writing:

Whereas only six working days of the present session of Congress remain and several important appropriation bills may fail unless Senators remain in the Senate to attend to the business thereof; and whereas the Senate is now without a quorum, and it is necessary that a quorum should be here: Therefore, the Sergeant-at-Arms be directed to compel the attendance of absent members.

Mr. EDMUNDS. I make the point of order that that is not in order under the rule. It is only a simple motion to send for absentees that is allowable.

The PRESIDING OFFICER. The Chair is of opinion that the point of order is well taken.

Mr. VOORHEES. I ask that the resolution of the Senator from Kentucky be reported.

The PRESIDING OFFICER. The Secretary will report the resolution offered by the Senator from Kentucky.

The Secretary read the resolution.

Mr. BECK. If the preamble is objectionable let it be stricken out.

Mr. EDMUNDS. I renew the point of order, that the preamble requires the Senate to vote upon a question that no body but a quorum can vote on.

Mr. BECK. I will strike out the preamble.

The PRESIDING OFFICER. The motion will be so modified.

Mr. MERRIMON. I rise to a question of order. My point of order is this: that an order cannot be made to compel the attendance of Senators until first there is an order made to request them. A Senator must be requested to come into the Senate before the Senate can take steps to put him in contempt under the rule. I think that is plainly implied from the rule, as well as from the reason of the thing.

Mr. THURMAN. I desire to answer to my name.

Mr. SPENCER. I think there is a quorum here now.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kentucky.

Mr. ALLISON. There being a quorum of the Senate present—

Mr. EDMUNDS. That has nothing to do with the question.

Mr. ALLISON. I move to lay that motion on the table.

Mr. EDMUNDS. You can make that motion.

Mr. ALLISON. I do make that motion.

The PRESIDING OFFICER. The Senator from Iowa moves to lay the resolution offered by the Senator from Kentucky on the table.

Mr. BECK. I propose now, that there is a quorum here, to withdraw it.

Mr. ALLISON. Very well.

The PRESIDING OFFICER. The Senator from Kentucky asks leave to withdraw his resolution or motion.

Mr. EDMUNDS. He has a right to do it without any leave.

The PRESIDING OFFICER. The resolution is withdrawn. The question is on the amendment offered by the Senator from Vermont, [Mr. EDMUNDS.]

Mr. EDMUNDS. I submit that there is no quorum. That fact has been ascertained; we therefore cannot do anything just now but call the Senate or adjourn.

The PRESIDING OFFICER. The Clerk will call the roll.

Mr. EDMUNDS. The roll has been called.

Mr. FERRY. I move that the Senate do now adjourn, and on that motion I call for the yeas and nays, in order to test whether there is a quorum here.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. McDONALD, (when his name was called.) I am paired with the Senator from Vermont [Mr. MORRILL] on all questions connected with the pending bill.

The roll-call having been concluded, the result was announced—yeas 7, nays 36; as follows:

YEAS—7.			
Booth,	Davis of W. Va.,	Ingalls,	Oglesby.
Butler,	Hoar,	Jones of Florida,	
NAYS—36.			
Allison,	Eaton,	Kirkwood,	Ransom,
Bailey,	Edmonds,	Lamar,	Rollins,
Beck,	Eustis,	McMillan,	Saunders,
Bruce,	Ferry,	Matthews,	Spencer,
Cameron of Pa.,	Garland,	Merrimon,	Teller,
Cameron of Wis.,	Gordon,	Mitchell,	Thurman,
Cockrell,	Harris,	Morgan,	Voorhees,
Coke,	Hill,	Paddock,	Wadleigh,
Davis of Illinois,	Kernan,	Plumb,	Windom.

ABSENT—33.			
Anthony,	Dawes,	Kellogg,	Saulsbury,
Barnum,	Dennis,	McCreery,	Sharon,
Bayard,	Dorsey,	McDonald,	Shields,
Beck,	Grover,	McPherson,	Wallace,
Blaine,	Hamlin,	Maxey,	Whyte,
Burnside,	Hereford,	Morrill,	Withers.
Chaffee,	Howe,	Patterson,	
Chandler,	Johnston,	Randolph,	
Conkling,	Jones of Nevada,	Sargent,	
Conover,			

So the Senate refused to adjourn.

The PRESIDING OFFICER. It appears by the vote that there is a quorum present. The question is on the amendment offered by the Senator from Vermont, which will be reported by the Secretary.

The SECRETARY. The amendment is in section 3, to strike out in lines 1, 2, and 3, the words:

That the bureau of health shall be charged with the supervision of all matters connected with the Marine Hospital Service.

The Secretary proceeded to call the roll.

Mr. McDONALD, (when his name was called.) I am paired with the Senator from Vermont, [Mr. MORRILL.]

Mr. MITCHELL, (when his name was called.) I am paired with the Senator from South Carolina, [Mr. PATTERSON.]

The result was announced—yeas 15, nays 17; as follows:

YEAS—15.			
Allison,	Cameron of Wis.,	Hoar,	Rollins,
Booth,	Eaton,	Morgan,	Saunders,
Bruce,	Edmonds,	Oglesby,	Thurman.
Cameron of Pa.,	Ferry,	Plumb,	

NAYS—17.

Bailey,	Davis of Illinois,	Hill,	Merrimon,
Butler,	Davis of West Va.,	Jones of Florida,	Paddock,
Cockrell,	Garland,	Kernan,	
Coke,	Gordon,	Lamar,	
Conover,	Harris,	Matthews,	

ABSENT—44.

Anthony,	Dorsey,	McCreery,	Saulsbury,
Barnum,	Eustis,	McDonald,	Sharon,
Bayard,	Grover,	McMillan,	Shields,
Beck,	Hamlin,	McPherson,	Spencer,
Blaine,	Hereford,	Maxey,	Teller,
Burnside,	Howe,	Mitchell,	Voorhees,
Chaffee,	Ingalls,	Morrill,	Wadleigh,
Chandler,	Johnston,	Patterson,	Wallace,
Conkling,	Jones of Nevada,	Randolph,	Whyte,
Dawes,	Kellogg,	Ransom,	Windom,
Dennis,	Kirkwood,	Sargent,	Withers.

The PRESIDING OFFICER. There is no quorum voting.

Mr. BOOTH, (at eight o'clock and forty minutes p. m.) I move that the Senate adjourn.

Mr. HARRIS. I hope the Senator from California will withdraw that motion.

Mr. EDMUNDS. No debate.

The motion was not agreed to.

Mr. TELLER. I ask leave to offer an amendment by order of the Committee on Railroads—

Mr. EDMUNDS. That cannot be done; there is no quorum present.

Mr. CONOVER. I move a call of the Senate.

The PRESIDING OFFICER. The Secretary will call the roll of the Senate.

The Secretary called the roll, and forty-four Senators answered to their names.

Mr. HARRIS. Is there a quorum present?

The PRESIDING OFFICER. There is a quorum present.

Mr. SPENCER. I desire to state that the Senator from Minnesota, [Mr. McMILLAN,] the Senator from North Carolina, [Mr. RANSOM,] and myself have been engaged this evening as a subcommittee of the Committee on Commerce on the river and harbor bill. We attempted to come to the Senate Chamber in time to vote on the last call of the roll, but unfortunately were too late. I wished only to account for the absence of these two Senators and myself.

Mr. HARRIS. I desire to say that if it be the pleasure or the judgment of the Senate to defeat this bill, I hope it will be done to-night and done by a direct vote. I am informed by the Senator in charge of the deficiency bill that he will demand its consideration to-morrow. If this bill is to be passed at all, and is not passed to-night by the Senate, it is killed by indirection, and I would greatly prefer having it done by a direct vote if it is to be done at all. I therefore beg Senators to let us so proceed to act upon it until the conclusion. Whatever may be the judgment of the Senate in regard to its merits or its want of merit, for one I shall acquiesce, whether satisfied or not.

Mr. EDMUNDS. Mr. President, I feel some confidence in supposing that the honorable Senator from Tennessee does not think that the motion I had the honor to make is either intended or will have the effect to kill this bill by indirection. The motion that I make is to strike out of this bill this clause—

Mr. HARRIS. If the Senator will allow me, I desire simply to say that my appeal was that a quorum of the Senate remain here and act upon the bill. My remark was not in reference to the Senator's amendment.

Mr. EDMUNDS. Then I will speak to the amendment, and in saying what I have to say, I will address myself to the judgment and attention of the honorable Senator from Tennessee in charge of the bill.

The Marine Hospital Service of the United States has been systematized under law for fifty years or more; indeed longer, for it began, as my honorable friend from Ohio [Mr. THURMAN] suggests, in 1796. It has nothing to do with the subject of the introduction of infectious or contagious diseases into the United States, but it has only to do with the comfort and maintenance and the administration of medicine to sick sailors from wherever they may come, and at all times. It has nothing more to do with quarantine laws than has a hospital in the State of Tennessee or in the State of Vermont, regulated by State authority. Now, it is proposed by the first part of the third section of the bill to overthrow that system entirely as it now exists, and to turn over to this newly created board of men the entire control of the Marine Hospital Service of the United States. It appears to me that it is entirely foreign to the objects and purposes and beneficial effects of this bill, if it is to have beneficial effects, and I do not know but that it will, and therefore in entire good faith I have moved to strike it out, because I believe that the Marine Hospital Service can best be left as it is now with its settled administration and its regulations and the officers in charge of it. It is entirely outside, as it appears to me, and any of the objects that this bill has in view.

Mr. HARRIS. Mr. President, it is with diffidence and deference that I say that I do not think the Senator from Vermont understands the effect of this bill in that respect. This bill does not propose to change a single rule or regulation with regard to the Marine Hospital Service. It simply changes the name of the officer who shall

execute the rules and regulations in respect to that service. Instead of their being executed and enforced by an officer called the supervising surgeon of the Marine Hospital Service, or the supervising surgeon-general—I am not sure which is the statutory title—it provides that they shall be executed by the Director-General of Health, but it leaves every rule and regulation of that service intact, in force, and that service goes on as it has gone on heretofore, except that the officer at the head of that department is changed. That is all that this bill proposes to do, so far as that service is concerned.

Mr. MATTHEWS. Mr. President, let me call the attention of the Senate and the Senator from Vermont to the act of Congress approved April 29, 1878, which devolves upon the Supervising Surgeon-General of the Marine Hospital Service precisely the duties of looking to the very interests confided to the same officer under the name of the Director-General of Health under this bill. That was "An act to prevent the introduction of contagious or infectious diseases into the United States," and the second section of it provides:

That whenever any infectious or contagious disease shall appear in any foreign port or country, and whenever any vessel shall leave any infected foreign port, or, having on board goods or passengers coming from any place or district infected with cholera or yellow fever, shall leave any foreign port, bound for any port in the United States, the consular officer, or other representative of the United States at or nearest such foreign port shall immediately give information thereof to the Supervising Surgeon-General of the Marine Hospital Service, and shall report to him the name, the date of departure, and the port of destination of such vessel; and shall also make the same report to the health officer of the port of destination in the United States, and the consular officers of the United States shall make weekly reports to him of the sanitary condition of the ports at which they are respectively stationed; and the said Surgeon-General of the Marine Hospital Service shall, under the direction of the Secretary of the Treasury, be charged with the execution of the provisions of this act, and shall frame all needful rules and regulations for that purpose, which rules and regulations shall be subject to the approval of the President.

Then it is made the duty, in the third section of that act—

Of the medical officers of the Marine Hospital Service and of customs officers to aid in the enforcement of the national quarantine rules and regulations established under the preceding section.

The fourth section of the act provides—

That the Surgeon-General of the Marine Hospital Service shall, upon receipt of information of the departure of any vessel, goods, or passengers from infected places to any port in the United States, immediately notify the proper State or municipal and United States officer or officers at the threatened port of destination of the vessel, and shall prepare and transmit to the medical officers of the Marine Hospital Service, to collectors of customs, and to the State and municipal health authorities in the United States, weekly abstracts of the consular sanitary reports and other pertinent information received by him.

Now, it is simply an enlargement of the duties of that officer as created by this act that the present bill proceeds, and so far from there being any inconsistency in the performance of the duties of a health officer having charge of quarantine regulations and of an officer in charge of the Marine Hospital Service, they are shown by this existing legislation to be consistent in the opinion at least of Congress; they are, in fact, irrespective of that, entirely so, for we know as a matter of fact that in nine cases out of ten the epidemics of yellow fever and cholera which have been brought into this country have been brought by shipping and by sailors in ships over whom the Supervising Surgeon of the Marine Hospital Service has, under this existing system, had jurisdiction for many years. So the effect of the adoption of the suggestion of the Senator from Vermont is simply to multiply without necessity officers and double the expense, which is saved by incorporating in one provision one system of duties which belong so appropriately to the same office; and such at least is the opinion of medical experts who have been engaged in the examination of this subject, and of the officer himself who is now occupying the position of surgeon of the Marine Hospital Service.

Mr. EDMUNDS. I am surprised at the remarks of the Senator from Ohio, [Mr. MATTHEWS.] He quotes the act of 1878 to show, if I correctly understand him, that it is only the quarantine powers, so to speak, that are by that act conferred upon the Supervising Surgeon of the Marine Hospital Service which are transferred to this service—

Mr. MATTHEWS. The Senator will allow me to say that I conveyed or intended to convey no such idea. I was engaged in the attempt to controvert the position of the Senator from Vermont, which was that it was inconsistent to bring together in the person of the same officer the discharge of the duties of the office of the Supervising Surgeon of the Marine Hospital Service with those of a health officer charged with the administration of quarantine regulations by showing to him that the same thing had been done by the act which I quoted, passed by Congress at the last session.

Mr. EDMUNDS. Well, Mr. President, the Senator as much misunderstood me as I misunderstood him, then. The proposition of this bill is that whereas by the act of 1878 there were imposed upon the Supervising Surgeon of the Marine Hospital Service certain duties in relation to quarantine, now then in order to make it comport with and consistent with that idea, it is proposed to turn over to the bureau of health not merely the duties that were reposed by that act in that officer but the whole control of the Marine Hospital Service of the United States, which has nothing to do in any proper sense with the question of quarantine. There is the difference. You might as well say that because a law of last year imposed upon the President of the United States the duty of regulating intercourse with the Indians in certain circumstances, therefore by new provision this

year you should take all the other powers of the President of the United States and repose them in some board.

The first three lines of this section are:

That the bureau of health shall be charged with the supervision of all matters connected with the Marine Hospital Service.

And then proceeds to carry that out in various ways. Now, if there are imposed upon the Supervising Surgeon of the Marine Hospital Service any duties that relate to the importation of these diseases into the United States, I have not the slightest objection to transferring those duties to this quarantine board; but when in addition to that you propose to transfer the whole Marine Hospital Service, the care of every disabled sailor whose leg is broken or who is shipwrecked, the care of every sick sailor or every sailor who is in want and has paid his tax as he has to do in order to keep up the marine hospital fund, to this board and take him out of the charge of that department of the Government that has so well administered that trust for more than fifty years, I am opposed to it. But if this bill is limited to the provision of merely taking these external duties and transferring them to this board I should not have a word of objection; I think it would be perfectly proper. But it not only does that but it in very terms says that this board of health shall have entire control of the whole Marine Hospital Service, not merely the question of the reports from foreign countries about infectious diseases and the transmission of them to the proper health officers and so on, but the charge of every one of the marine hospitals which receive their patients without regard to whether the diseases are infectious or not and without regard to whether they come from without the country or from within. That is the proposition. I say, therefore, that this bill is altogether too radical, and instead of being conservative in the sense of health or in the sense of propriety it is quite the reverse.

Mr. MATTHEWS. The Senator from Vermont is again mistaken, Mr. President. This bill does not transfer to the board of health any duties connected with the Marine Hospital Service.

Mr. EDMUNDS. Will the Senator then tell me what these three lines mean that read in this way:

That the bureau of health shall be charged with the supervision of all matters connected with the Marine Hospital Service?

Mr. MATTHEWS. It means just what it says, and it says "bureau of health," and not "board of health."

Mr. EDMUNDS. That is just what I am speaking of.

Mr. MATTHEWS. But you said "the board of health," and the "board of health" is a different thing from the "bureau of health."

Mr. EDMUNDS. Then I will withdraw "the board" and insert the slab as the backwoodsman says. [Laughter.]

Mr. MATTHEWS. What wit there may be in that, only the keen intellect of the Senator from Vermont may be able to see, or the galleries, to which it was addressed. I certainly am not able to do it.

Mr. EDMUNDS. That is because you stick in the bark, I suppose. [Laughter.]

Mr. MATTHEWS. What pertinency in the suggestion of inserting "slab" instead of "board!" I supposed the Senator from Vermont was treating the subject in a serious way and really meant what he said, and was not making all that speech simply for the purpose of getting off that joke. He evidently misconceives the whole thing. He does not draw the distinction which the bill draws between the bureau and the board of health. There is a board of health created by the bill, and it is very distinct from the bureau of health, but is in connection with it. The bureau of health is in the same Department which the gentleman says for fifty years has had charge of the Marine Hospital Service, and it does not take it out of that Department. It is in the Department of the Treasury. Neither does it affect that fund, for it expressly devotes the fund raised in that way to the purpose to which by law it is now devoted. It simply says that there shall not be two officers when one is sufficient, and that there shall be superadded to the duties of the officer having charge of the Marine Hospital Service the other duties which, in addition to those imposed by the act of 1878 relating to quarantine, are created by this bill; and I put the gentleman back exactly where he was before and the position from which he seeks vainly to escape. His objection was, without recollecting the existence of this statute, the incongruity of incorporating into one person and office diverse duties, one set connected with the Marine Hospital Service and the other with the quarantine. I answered him conclusively by showing that that had been already done by an existing statute, and that the effect of the present bill was simply to enlarge the area of the jurisdiction in respect to quarantine which had already been given by way of jurisdiction to the Supervising Surgeon of the Marine Hospital Service. The only change made was a change of the name, calling him Director-General of Health instead of Supervising-Surgeon of the Marine Hospital Service.

Mr. EDMUNDS. And that was expected to stop the yellow fever, I suppose!

Mr. MATTHEWS. No; I could stop the yellow fever, I think, better. I am told that refrigeration is a better cure by a destruction of its germs, and if I could only make use of the Senator from Vermont I am sure I could prevent it. [Laughter.]

Mr. EDMUNDS. Mr. President, I must admit that I am cool at this time of night, and I hope everybody else is; but if I had any ice to bestow at this present time I would give it to my honorable friend to stop all his germs. [Laughter.]

But, Mr. President,—to be serious again about this business, if my friend is willing to be,—he says that the only object of this whole provision about transferring all matters connected with the Marine Hospital Service to the bureau of health is a change of name. I have heard of laws to change the names of vessels that had foreign registers, and that sort of thing, but I never heard of a bill that was got up under the circumstances that this was, as a measure of public safety, of instantaneous importance that we could not wait until tomorrow to consider and to study it, and then to be told at last that it depended entirely upon a change of name—that this rose of safety that is to be plucked out of the jaws of danger really has its chief virtue in the fact that it has changed the name of a bureau in the Treasury Department!

Mr. President, that argument is not sound. The act of 1878 to which the honorable Senator refers furnishes no authority for transferring these duties in the way this bill does. That act added to the duties of the Marine Hospital Service certain other duties. Now, as I said before, the effect of this act is not merely to transfer those added duties relating to external affairs, but it transfers the whole thing to a newly constituted bureau of health—to be careful about terms—which is to be established and have a chief executive officer with clerks and appointments by the President, and so forth, and then that in connection with it, whatever that may mean—whether it is connection by consanguinity or affinity I am sure I do not know; whether it is a connection by germ or by ice, I do not know—but in connection with it there is to be a board as well as a bureau. Now, then, if these duties are transferred to a bureau that is to act in connection with the board, I should be glad to be told the distinction between the case as I stated it before by a mere slip of the tongue in using the word "board" instead of "bureau." No, Mr. President, the substantial effect of this thing is to entirely upset the present Marine Hospital Service and introduce another. The new one may be better; but it certainly does that thing.

Mr. THURMAN. Mr. President, I wish to make a few inquiries for information. I want to ask my colleague whether the office of Supervising Surgeon-General of the Marine Hospital Service is directly or by implication abolished by this bill.

Mr. MATTHEWS. It is abolished.

Mr. THURMAN. Then I wish to know, in the next place, if the duties devolving on the Supervising Surgeon-General of the Marine Hospital Service are devolved on any other officer?

Mr. MATTHEWS. They are devolved by express terms on the Director-General of Health.

Mr. THURMAN. Then the effect is to change one officer for another?

Mr. MATTHEWS. So far as that is concerned.

Mr. THURMAN. So far as that is concerned. Mr. President, I have had some occasion to look into the subject of marine hospitals. My attention was called to it merely accidentally about a year ago. I am very well satisfied that the Supervising Surgeon-General of the Marine Hospital Service discharges his duties and does them well. I am very certain that if there is any complaint it is not that those duties are not discharged as well as they ought to be, and I have very great doubts whether, if those duties be devolved upon an officer who has so many other duties as this bill will devolve upon this Director-General of Health, the latter will be able to discharge the duties of Supervising Surgeon of the Marine Hospital Service in the manner that those duties ought to be discharged.

I cannot go into details, and I will not do it. I am extremely anxious to vote for this bill if I can do so, but so far as this feature of it is concerned I doubt exceedingly whether it is right to change the present administration of the marine hospitals of the country. The first act on the subject of marine hospitals was in 1796. A much more comprehensive act was passed in 1802. The whole system was revised a few years ago, perhaps last year. I doubt exceedingly the propriety of disturbing the administration of that service and transferring it to anybody else, and therefore I voted (and in no spirit of hostility to this bill, I beg my friends to understand, at all, but rather in friendship to it) for the amendment of the Senator from Vermont, and I feel bound to continue to vote in that direction.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Vermont.

The Secretary proceeded to call the roll.

Mr. McDONALD, (when his name was called.) I am paired with the Senator from Vermont, [Mr. MORRILL.]

Mr. WADLEIGH, (when his name was called.) A short time ago the Senator from Delaware [Mr. SAULSBURY] and myself, having eaten nothing for some twelve hours, agreed to pair until we could go to dinner. He has not yet returned, and I refrain from voting.

The roll-call having been concluded, the result was announced—yeas 17, nays 23; as follows:

YEAS—17.			
Allison,	Edmunds,	Plumb,	Thurman,
Booth,	Ingalls,	Ransom,	Windom.
Cameron of Pa.,	McMillan,	Rollins,	
Cameron of Wis.,	Morgan,	Sanders,	
Eaton,	Oglesby,	Teller,	
NAYS—23.			
Bailey,	Butler,	Conover,	Eustis,
Beck,	Cockrell,	Davis of Illinois,	Garland,
Bruce,	Coke,	Davis of West Va.,	Gordon,

Harris,	Jones of Florida,	Lamar,	Paddock,
Hill,	Kernan,	Matthews,	Voorhees.
Hoar,	Kirkwood,	Merrimon,	

ABSENT—36.

Anthony,	Dennis,	Kellogg,	Sargent,
Barnum,	Dorsey,	McCreery,	Saulsbury,
Bayard,	Ferry,	McDonald,	Sharon,
Blaine,	Grover,	McPherson,	Shields,
Burnside,	Hamlin,	Maxey,	Spencer,
Chaffee,	Hereford,	Mitchell,	Wadleigh,
Chandler,	Howe,	Morrill,	Wallace,
Conkling,	Johnston,	Patterson,	Whyte,
Dawes,	Jones of Nevada,	Randolph,	Withers.

So the amendment was rejected.

Mr. MORGAN. I offer this amendment as an additional section to the bill:

SEC. —. Neither the board of health established by this act nor any officer thereof shall in any manner interrupt or interfere with any local health officer or any local board of health in the full and free right under the laws of the several States to exercise the power and jurisdiction conferred upon it by such State laws.

Mr. EDMUNDS. I suggest to the Senator from Alabama in the light of the exegesis we have had from the Senator from Ohio [Mr. MATTHEWS] that he has made a misuse of a term. It should be the "bureau of health" which is the high commanding power in this bill instead of "board" as the amendment was read by the Secretary.

Mr. MORGAN. I will say "bureau of health" instead of "board of health."

Mr. EDMUNDS. That would be safer.

Mr. HARRIS. I will offer as a substitute for the amendment proposed by the Senator from Alabama the following, which I hope will be satisfactory to the Senator from Alabama and other Senators who entertain the same class of opinions that the Senator from Alabama seems to entertain:

Provided, That nothing in this act shall be so construed as to supersede or impair any sanitary or quarantine law of any State.

The PRESIDING OFFICER. The question is on the substitute offered by the Senator from Tennessee for the amendment of the Senator from Alabama.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question is on the amendment as amended.

The amendment as amended was agreed to.

Mr. EDMUNDS. With the greatest possible diffidence and respect, I should like to call the attention of the Senate to the fourth section of this bill. The fourth section provides:

That it shall be unlawful for any vessel engaged in the transportation of goods or persons from any foreign port where any contagious or infectious disease exists to and into the United States—

Whether that makes sense is a question for the committee; I am not on the question of how it reads in a mere technical point of view—to enter any port of the United States except in accordance with the provisions of this act, and all rules and regulations made in pursuance thereof.

The act confers full power on the bureau of health, or the board of health, or both, to make all rules and regulations upon the subject of diseases. Now the clause is, the cardinal point of it:

From any foreign port where any contagious or infectious disease exists.

It is not confined to yellow fever, it is not confined to cholera, it is not confined to the plague, but it covers every class of diseases known either as contagious or infectious, and I think I am safe in saying, and I feel sure the honorable chairman of the committee will agree with me, that there is no foreign port wherein some infectious or contagious disease does not exist all the time, as there is no port in the United States and indeed no town in the United States of any considerable size where some disease that will fall within that definition does not exist. The effect therefore of that broad language is to transfer to this bureau, or board, or both, the absolute power of making rules and regulations respecting all intercourse between the United States and every foreign port at all times, making it a positively unlawful act for any vessel to enter any port of the United States under any circumstances at any time unless she does it in conformity with the law that this bureau or board shall make.

If that is the intention of the committee I have nothing more to say than to vote against it. If it is the intention of the committee where they use the words "any contagious or infectious disease," in respect of these regulations and the right of a vessel to come in in spite of them, to refer to these great classes of diseases that spread in the way that cholera and the yellow fever and the plague do, then I submit with great respect to the committee that it would be wise to say so; but the effect of this section as it stands is to make all foreign intercourse absolutely illegal by vessels unless they conform to the regulations that this board chooses to make, because, as I said before, there is no foreign port, and there never will be, and there never was, wherein there does not exist some contagious or infectious disease.

Mr. PADDOCK. I should like to inquire of the Senator from Vermont if it would not meet his objection if after the word "exists" there should be inserted the word "epidemic," so that it would read "where any contagious or infectious disease exists epidemically."

Mr. EDMUNDS. That would certainly help it a great deal.

Mr. PADDOCK. I move that that word be inserted.

Mr. HARRIS. I have no objection to that.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Nebraska, [Mr. PADDOCK.]

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

Mr. THURMAN. There is a provision in this bill on which I do not know that the Senate has voted, though I was out for some time. It seems to me of very doubtful propriety. I refer to section 3, lines 16 to 19, in these words:

The bureau of health shall also be charged with the execution of all laws and orders, rules and regulations, made in pursuance of law, for the improvement of the sanitary condition of the District of Columbia.

Mr. DAVIS, of Illinois. That has been voted on in the Committee of the Whole.

Mr. MATTHEWS. If my colleague will allow me, I will state to him that on the motion of the Senator from Vermont to strike out those words a vote was taken in committee, resulting in 23 votes in the affirmative and 24 in the negative, and I understood the Senator from Vermont to say that when the bill came into the Senate, as it now is, he expected to renew that motion. I desire to say to him that when that takes place, upon consultation with the other members of the committee, and in view of some criticisms that have been made, we are prepared to assent to the striking out of that clause of the bill. If that motion is now made, there will be no objection to it.

Mr. THURMAN. I do not make the motion; I leave it to the Senator from Vermont. I was out of the Senate when those proceedings took place. If I am not mistaken, there is in this bill a provision that this Director-General of Health may quarantine any place within the United States. I think in hastily reading over this bill I found something of that kind. If so, I wish to move to strike that out; but I will suspend my motion until the Senator from Vermont has moved to strike out the provision as to the District of Columbia.

Mr. HARRIS. If I understand the position of the question at present, the amendments made as in Committee of the Whole have been adopted.

The PRESIDING OFFICER. The question was taken upon the amendments and they were concurred in.

Mr. HARRIS. If the Senator from Vermont desires to have a vote in the Senate on the amendment he offered in committee, it does not affect in the slightest degree the general objects and purposes of this bill if his amendment shall be adopted, and the committee, as has already been stated by my colleague upon the committee, have no objection to the adoption of the amendment, the same matter having been referred to a moment since by the Senator from Ohio [Mr. THURMAN] striking out from line 16, of section 3, to the word "Columbia," in line 19, of section 3, as follows:

The bureau of health shall also be charged with the execution of all laws and orders, rules and regulations, made in pursuance of law, for the improvement of the sanitary condition of the District of Columbia.

It does not affect in the slightest degree the general objects and purposes of the bill to strike out those lines, and the committee have no objection to their being so stricken out.

Mr. EDMUNDS. I was not in the Senate when the result of the vote in committee upon this clause was announced, and I have no recollection that I have heard it spoken of since. The Senator from Ohio who sits nearest me [Mr. MATTHEWS] seemed to have had that impression. As I did not wish to interpose any factious opposition to this bill but only desired to call the attention of the Senate to such ideas as I had about it, where on the yeas and nays I had failed I had not intended to make any further motion upon the subject, but to submit to the judgment of the Senate taken upon the yeas and nays. If they want to do it, let them do it.

Mr. DAVIS, of Illinois. I renew the motion of the Senator from Vermont, that the words, beginning in line 16 of section 3 with the words "the bureau of health" and ending in line 19 with the word "Columbia" be stricken out.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. THURMAN. Now, Mr. President, I call the attention of the Senator who has the bill in charge to the provision to which I have adverted. It is in section 7:

That rules and regulations framed and approved as hereinbefore authorized shall be promulgated, so that when cholera, yellow fever, or other similar contagious or infectious disease shall be ascertained by the Director-General of Health to exist in any port or place within any one of the United States, in such form as threatens its spread, as to prevent, as far as practicable, the communication of the same to other ports and places within other States, by means of vessels and vehicles engaged in the transportation of goods or passengers between two or more States, whether by land or water; and in that case the Director-General of Health shall select suitable localities for establishing quarantine stations on the rivers and other lines of interstate commerce and travel by railroads, and may cause to be erected necessary temporary buildings for the disinfection of passengers, baggage, cargoes, vessels, and vehicles, and may enforce such rules and regulations relating thereto as may have been prescribed therefor.

"Shall select suitable localities for establishing quarantine stations on the rivers and other lines of interstate commerce and travel by railroads." If I understand the provision this Director-General here in Washington may establish a quarantine at any point in the United States on any river or any railroad. We understand what the word

"quarantine" means, and it is not simply to establish or provide, as is stated in this bill, a suitable building where the infected or diseased may be taken care of, but it is absolutely to stop all intercourse. Now it does seem to me that this is a very doubtful power to be exercised by a man here in Washington, that he can select any town in the State of Ohio, or the State of New York, or the State of Massachusetts, or the State of Tennessee, and say that that town shall be quarantined. That strikes me as a very doubtful power to place in the hands of any one man situated a thousand miles perhaps, from the place that he attempts to quarantine. It seems to me that that is of more than doubtful propriety. We know there have been some towns quarantined during the last summer and fall, but it has been done by local orders or local legislation. But to place in the hands of one man situated hundreds of miles away, the power to quarantine the city of Cincinnati, or the city of Memphis, or the town of Jacksonville, or the city of Raleigh, or any other place that he may see fit to quarantine, seems to me to be of exceedingly doubtful propriety.

I rose to call attention to that provision in the bill; and unless some explanation can be made of it that justifies it, I hope it will be stricken out.

Mr. VOORHEES. If there was anybody to quarantine except the person provided for in this bill, I do not exactly know how that duty would be performed. For instance, the Senator from Ohio lives in a town which is peaceful and healthy, and he is enjoying life there. Suppose the yellow fever should break out, say twenty or thirty miles away, and there was nobody else to declare quarantine between him and that stricken place from which the people were fleeing to his town, he would be glad there was somebody clothed with the authority conferred by this bill to stop emigration from the plague-stricken town to his own; and in the absence of it I do not know how he would have any quarantine at all. If he knows, I should like to hear from him.

Mr. THURMAN. If the Senator is waiting for a reply I will answer.

Mr. VOORHEES. Yes.

Mr. THURMAN. I think it is perfectly competent for the State of Ohio to provide for a quarantine in respect of any place within that State. I saw last summer and fall in the newspapers numerous cases in which towns were quarantined either by local authority of the towns—their power I do not know—or under some authority which was found sufficient for the purpose. Now, I do think really, and I say this, as I said before, without the least spirit of hostility to this bill, because all my feelings are in favor of the bill, that whether the city of Columbus shall be quarantined or not, whether no person shall go out of that city, or whether no person shall be permitted to go into that city, is rather a matter for the State of Ohio than it is for a Director-General four hundred miles away. I think that the health of that city would be better protected and the health of the neighboring country would be better protected under our Ohio regulations than it would be by an arbitrary edict of a Director-General here in Washington.

Mr. VOORHEES. Pardon me. Let me ask the Senator from Ohio what are the regulations of the State of Ohio? The Senator from Ohio is opposing this bill by an argument in behalf of the superior regulations of the State of Ohio upon this question. Now, will he inform the Senate what those regulations are, whether any at all have ever been made by the State of Ohio.

Mr. THURMAN. I scarcely know. I may say I know of none, because our municipal corporations are regulated by a general law in which power is given to the governments of cities and towns to make provision in regard to their health and the preservation of their health. Whether those provisions extend so far that they might declare a quarantine, I am not prepared to say; but this I am prepared to say, that if any such power is necessary the State of Ohio is the best judge, and it would be much better exercised under a law of the State than it would be by the arbitrary edict of one man sitting here in Washington City.

Mr. VOORHEES. The theory of the Senator from Ohio sounds well from an old-fashioned stand-point, in which I sympathize most thoroughly; but I know that a boat called the Porter went steaming up the Ohio River, stopped at Gallipolis, and there spread yellow fever, death, and destruction for miles around; and I have never heard, and consequently I ask to be informed, whether the State of Ohio had in the slightest degree prepared for the prevention of such a calamity? According to my understanding she never had.

Mr. MATTHEWS. The Senator from Indiana will allow me to interrupt him a moment.

Mr. VOORHEES. Yes.

Mr. MATTHEWS. He might go on to ask whether the State of Ohio had not power to stop the Porter on the Ohio River from navigating that river.

Mr. VOORHEES. As a matter of course she had not, the Ohio river being a navigable stream under the law of the United States. Neither the State of Kentucky on the one side nor the State of Indiana on the other, nor Ohio or West Virginia had the power to stop her upward course, carrying death and destruction on each side. Consequently the necessity of this legislation. I sympathize most profoundly with the Senator from Ohio in his views in regard to the encroachments upon the rights of the States by the Federal Government; but on this question I believe there is no interference, no infringement, and no conflict; and consequently I have no trouble

in my mind in supporting the bill as reported by the Senator from Tennessee.

Mr. THURMAN. Mr. President, law or no law, the city of Gallipolis did prevent the Porter from landing at that city.

Mr. VOORHEES. Ah, that was "the shot-gun policy" and nothing else.

Mr. MATTHEWS. But she did land there.

Mr. VOORHEES. She did land. If there was any prevention at all, it was the prevention which has been so denounced by Senators on the other side of this Chamber, the law of self-defense and self-protection which resorted to the law of violence.

Mr. THURMAN. Mr. President, I never heard of the "shot-gun policy" in my State before. We are mainly riflemen in that State. We do not use shot-guns to any great extent. I know that, law or no law, the Porter was prohibited from landing at the port of Gallipolis. I know that she was compelled to anchor miles below the town of Gallipolis, and if the yellow fever was spread from her it was by her crew leaving the boat and going among their friends contrary to the orders of the council of the town of Gallipolis.

But, Mr. President, I quite deny the law of the Senator from Indiana, and which seems to have the sanction of my colleague, that a State is so impotent that a city of that State is compelled to permit a plague-laden vessel to come into one of her ports. No, sir; every quarantine law of a State forbids it. Does not the State of New York forbid plague-stricken vessels from entering the port of New York? And is there any distinction between the port of New York and the port of Cincinnati? Is there not just as much right to enter the port of New York as there is to enter the port of Cincinnati? No, Mr. President, if I may say it without creating a laugh, "that won't do."

Now let us look at this in a practical view, for that is all the view I want to take. This section 7 does not simply apply to the river navigation; it applies to every railroad in the States, and it authorizes this one man, upon such information as he can obtain sitting here in Washington City, to quarantine every city, town, or village in the United States, if I correctly understand it. I do not think that power ought to be lodged in him. I think it is very much better to leave it to the local authorities.

Mr. MORGAN. Mr. President, another view of this question which perhaps has not attracted the attention of the Senator from Ohio or other Senators is the power to impose quarantine. I think the power might be very applicable to large commercial marts on the Gulf of Mexico. New Orleans and Mobile both are large ports, and are great points of communication with the interior. The interior towns along the Mississippi River and along the Alabama River and along the railroads also last fall quarantined against these large ports. The reason for quarantine is perfectly obvious. The supposition and the general opinion was that the yellow fever had been introduced into these ports from abroad, and had become generally epidemic in those towns, at least in New Orleans; and the object was to cut off all communication of the interior with these cities. These large cities complained very much of this interdiction.

Now, I apprehend that one of the purposes of this bill is to deny to the corporations which may exist along the margins of the rivers and to which the railroads may be running the power to quarantine against these large places. We think in the interior of these States that it is necessary to preserve this power of quarantine against the large cities upon the coast, so that this intercommunication may be prohibited and so that the disease may not be spread. If the Director-General of the Health Bureau shall say, "You must not quarantine," I do not see anything in this bill to prohibit him from saying that. When the law of the United States sends a legitimate officer with constitutional power into a State to execute its laws, there is no law that can stand against him. Indeed I have never heard that doctrine denied until to-night. And if the general health officer says there shall be no quarantine, then what becomes of the power of the different States or municipalities to establish quarantine, and how can they protect themselves against these large commercial marts that may choose to send their trade into the interior? It depends only on the health officer of the United States, it seems to me, as to whether there shall be trade and intercourse or whether there shall not be trade and intercourse between the Gulf cities and the interior cities or counties. I expect one of the purposes of introducing this provision into the bill is to cut off the attempt of the local municipalities from excluding trade and intercourse from those places where epidemic diseases may prevail.

Mr. EDMUNDS. I shall only occupy a moment. I wish to call the attention of the Senate to the eighth section of this bill which, after providing in the first part of it (and to save time I will not read it but state it) that this director-general and board of health and so on may correspond, &c., with the members of municipal health boards, which is all right, then proceeds to say that for this purpose of preventing the introduction and spread of contagious diseases:

It shall be lawful for said board of health and Director-General of Health to confer upon any such local officer or board within or near the locality where his or its authority is exercised power also to enforce the provisions of this act and any rules and regulations made in pursuance thereof.

If this clause is to be upheld upon the theory that the persons upon whom this power is to be conferred are to be officers of the United States, then of course it is in the face of the Constitution which says that no officer of the United States can be appointed ex-

cept by the President and Senate, by the President alone, or by the courts of law. If it is intended to mean to delegate authority, then I submit with great respect that it is not within the competence of a statute even of the United States to commit to any officer of the United States the power to delegate the execution of the laws to somebody else unless they are the officers of the United States.

I do not intend to make any motion about it. I only wish to call attention to it so that it will not be said that this was passed over without the point having been suggested.

Mr. HARRIS. May I ask the Senator from Vermont if the effect of this provision to which he has referred would not be to make them officers and to clothe them with all necessary power, so far as the execution of this act and the rules and regulations made in pursuance of it are concerned?

Mr. EDMUNDS. I think that is the only ground on which the proposition can be upheld; and when you come to that ground, the suggestion I first made is applicable, that it is to make them officers of the United States, and they are to exist or not to exist not as according to the Constitution by the appointment of the President and the Senate, or the President alone, or the courts of law, but by the appointment of the Director-General of Health.

Then, Mr. President, one other thing and I shall have done I think entirely—

Mr. HARRIS. Will the Senator allow me to correct what seems to me to be a misapprehension? Wherever it is necessary to appoint an officer, it is by the Secretary of the Treasury. The subordinate officers see to the execution of these matters. In this particular section I grant that this bureau designates some local officers, or empowers certain local officers to see to the execution of this act and the rules and regulations made in pursuance of it.

Mr. EDMUNDS. Now I will go on again. The only additional thing I wish to say, and then I think my duty will have been discharged upon the leading features of this bill, is to call the attention of the Senate to the proviso that has been adopted on the motion of the Senator from Tennessee. It provides that nothing in this act,—that is the substance of it,—shall be construed to affect in any manner the powers of the State authorities, be they what they may. All that I wish to say about that is, that that proviso is in my humble judgment entirely inconsistent with a great deal that this bill contains. Whether it will be held that the proviso repeals and annuls those parts of the bill that are inconsistent with it, or whether the bill will be held to override the proviso, and so the proviso be void, will be a question to be determined; but this certainly does in almost all of its really operative sections interfere affirmatively with the State authority, as was pointed out by the Senator from Massachusetts; and therefore the proviso that has been added is in my judgment directly inconsistent with a good many of the features of the bill. Being so, the question will remain whether the bill overrides the proviso or the proviso overrides the bill.

Mr. THURMAN. Is there any amendment pending?

The PRESIDING OFFICER. There is not.

Mr. THURMAN. I move, then, to strike out the word "quarantine" before the word "stations," in line 12, of section 7, so as to read:

And in that case the Director-General of Health shall select suitable localities for establishing stations on the rivers and other lines of interstate commerce and travel by railroads.

If that word be stricken out this Director-General will not be authorized to quarantine towns or cities in the way that I have spoken of before; but the power will remain to him to establish stations and private buildings and the like for disinfecting passengers, cargo, and freight.

Mr. HARRIS. Let me understand the Senator from Ohio as to the precise words that he proposes to strike out.

Mr. THURMAN. I propose to strike out the single word "quarantine," so that this Director-General sitting here on his stool in Washington City shall not have the power to quarantine any place in the United States that he sees fit. He may establish stations and private buildings if he sees fit for the disinfection of passengers and cargo and freight and the like, but I am not willing to give to him the power, in his judgment, upon the imperfect information that he may receive in regard to a town in Maine, or in regard to a town in California, or in Oregon, or in Texas, fifteen hundred or eighteen hundred or two thousand or three thousand miles away, that he may quarantine that place. I am not willing to give him that power.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio, [Mr. THURMAN.]

The amendment was agreed to.

Mr. KERNAN. I now renew the motion which I moved before, and which I withdrew, because it was feared that a vote upon it would develop the want of a quorum. I move to strike out from section 6, beginning in line 23, the following words:

In case the health officer at any such port, appointed by local authority, shall refuse to adopt and observe the rules and regulations prescribed by the bureau of health for the inspection, disinfection, and treatment of vessels, their cargoes, passengers, and crews, or, in the opinion of the board of health, shall neglect or fail so to do.

I move to strike this out because, as I understand, it gives power to this bureau at Washington over health officers, boards of quarantine commissioners, such as we have in New York, whose duties as to pre-

venting infectious diseases are prescribed by statutes and regulations which have existed for many years. The State authorities have bestowed the greatest care to have them efficient. In case this bureau shall differ from the State authorities and have regulations contravening those prescribed by our statutes for the port and city of New York, the bureau created by this bill is to appoint a health officer, and he is to take charge of the whole matter and enforce rules and regulations different from the State laws.

I believe that where States have established by law health officers and boards and rules and regulations to protect their people from the introduction of epidemic and infectious disease at their ports, that those are and ever will be more protection to the community than any bureau located at the seat of government. Hence I wish to strike out the words which I have read and then amend the subsequent part of the section so as to grant authority to the bureau to appoint a health officer for a port only where the State authorities have not prescribed and established health officers and quarantine regulations. I deem this matter of importance in cities like New York and Boston. A bureau is a thing I do not favor as a rule, for I believe localities may and will protect themselves better than bureaus located at Washington. This provision which I move to strike out would, in my judgment, authorize this bureau at Washington to say to the State boards and health officers, "Gentlemen, if you follow the rules and regulations which your State laws have prescribed, after years of experience, and will not follow our rules and regulations, we will appoint health officers to put our rules and regulations in force," and of course the State rules and regulations will not then be effective. I hope these words will be stricken out; and if they be stricken out the friends of the bill can amend the section so as to make it apply only where the State does not establish health officers, quarantines, &c. I do not want to embarrass the bill but to aid it, and I suggest that it can be amended just after the words I propose to strike out so as to make it read:

It shall be the duty of the Secretary of the Treasury to appoint health officers of the United States for any port where none are appointed under State authority, &c.

That would leave the States to protect themselves where they will do so; and where the States do it by their own boards and health officers created and regulated by their statutes and at their own expense no bureau located at Washington should interfere. The community whose lives are at stake will look to the matter better than a bureau or board kept up at the seat of Government.

Mr. HARRIS. I beg to inquire of the honorable Senator from New York if he was present when the proviso that I added to the last section of this bill was offered and adopted? When this bill pronounces in terms as distinct as language can convey that nothing in this act shall be construed to supersede or impair the law or regulations adopted by any State in reference to sanitary or quarantine matters, with what justice or propriety can my friend, the Senator from New York, insist upon the amendment he offers, and make the argument that he has just submitted?

Mr. KERNAN. Allow me to explain right there. I have been present all the time. I did not hear any such proviso offered or read.

Mr. HARRIS. There is such a proviso added to the bill.

Mr. KERNAN. Allow me to say that that proviso will not nullify this proviso which I propose to strike out. If the boards of the State do not carry things out to suit this bureau that is to be established, the bureau can override them. If in the opinion of this bureau the local officers are not doing what they should do under their laws, these men can come in and interfere.

Mr. HARRIS. Let me say in addition that, under the authority of this act, this board will prescribe just such regulations as in the opinion of the board are necessary to prevent the importation of contagious or infectious diseases into the United States, and if the officer of the State shall decline or fail to execute this act, then, but not until then, is it the duty of the Secretary of the Treasury to appoint a Federal officer to see that the provisions of this act, and the regulations made in pursuance of it, are executed. That is the intention of this measure. Every act and every regulation under the laws of the State of New York will be in full force and effect, and every officer of that State in full authority, clothed with full power to execute the decrees and behests of that State. When we have sat in judgment upon the vessel that comes from an infected port, when we have determined that so far as the Federal law and the regulations made in pursuance thereof have been complied with so far as the Federal authority is concerned, they are permitted to go forward. When they come to the State quarantine stations they have to answer there, and if the quarantine officer of the State of my friend from New York shall require additional or other acts upon the part of the vessel they are left undisturbed so far as this act is concerned. Require what you please. We do not seek to interfere with any law, or the functions or the power of any officer of your State or any other State in this Union; but exercising the power that Congress has to so regulate commerce as to prevent the importation of disease that decimates a whole people, we claim that it should be so regulated as to prevent the importation into the United States at all, whether it be the port of New York, the port of Boston, the port of Mobile, the port of New Orleans, or any other port. We claim that it is our right to so regulate it as to say, "No, this noxious, this poisonous, this killing disease shall not be permitted to enter our outer walls." We stand out

beyond your jurisdiction, beyond your powers. We say you shall conform to our rules and regulations before you shall pass this line. When you have passed it go on to the quarantine station of New York, to the quarantine station of Boston, to the quarantine station of New Orleans or Mobile, and there you shall answer, there you shall comply with whatever regulation, whatever law that State shall demand at your hands. That is my answer to the Senator from New York.

Mr. KERNAN. It comes right back to where my trouble was on the Senator's presentation. I move to strike out that which says in substance that the rules and regulations of this board made at Washington shall be carried out by the officers at the port of New York, of that State, or such officers are to be removed.

Mr. HARRIS. There is not one word in the bill that looks to that.

Mr. KERNAN. I will take the language and make my comments. The bill reads that this board shall prescribe rules and regulations, and if any local officers shall refuse to adopt and observe them, or if in the opinion of the board they have neglected to observe the rules and regulations made by the bureau at Washington, there shall be another officer appointed to take charge and enforce the regulations of this bureau that is to be set up here. In a word, when we have our medical advisers, who have advised our law for seventy-five years and have made rules and regulations to rid the country of these diseases, we must neglect our statutes and follow the rules and regulations of this bureau, or there is to be a man put over us who will carry out the one set of rules which negatives the other. That is my difficulty, because you observe these words:

In case the health officer at any such port appointed by local authority shall refuse to adopt and observe the rules and regulations prescribed by the bureau of health.

Suppose that under some new theory the board here, far away from where the yellow fever threatens us in New York, shall say, "We insist upon your observing and adopting rules and regulations in violation of the very statutes of New York which have been framed to guard you from the pestilence." Then your law and this bureau, through its agent there, will control. That is the meaning of this provision with the proviso in, as avowed by the chairman of the committee. The proviso will not help us. The statutes which we obey have been made year after year, judging from experience. We have had pestilence there. Yellow fever and other pestilences have been there within a century. Our people may suffer as the people of every other port. In Washington this board or bureau is to be established; and they can say, "You must adopt our rules and regulations; your medical men, put there by State statute, are bound to obey this law, which overrules the State laws," and if they do not obey they are to be set aside. The proviso does not help us.

I say broadly that wherever a State enters upon the duty of protecting its people from pestilence, it will be wiser and better as a rule that that people shall have the regulations they have adopted to save their own lives, and not be put under a bureau of experts who get up theories and only find they fail when the pestilence comes in among our two million people and leaves many of them in their graves.

I claim that where the State will act it should be allowed to do so. We have acted and protected ourselves for seventy-five years, guarding against the experience which we had in 1821, I think, with yellow fever, and guarding against the cholera and other infectious diseases. Now you come in here to establish a bureau of health to look after us. They will be doubtless respectable men, but they may be theorists. They will make rules and regulations for the local officers appointed by the State of New York, who are bound to follow its statutes. You will not let them exist, for if they will not adopt the rules and regulations of this board they are to be a nullity and other officers are to be put over them.

I submit that the proviso does not relieve my difficulty. I wish with everybody to do anything we can to aid the States that will not act for themselves; but when the State of Massachusetts, or Pennsylvania, or New York has furnished protection for its people for many years against pestilence, where those States have adopted rules and regulations by statutes, by boards of quarantine officers, by health officers, the very best and most experienced which we can get in the world, to protect our people, I ask you not to say to us, if we are threatened with pestilence, "You must abandon all you have built up by experience and adopt the rules and regulations prescribed by this national board;" or if they, in the opinion of the board, neglect to do what the board says ought to be done, and do something else which they believe, and which we who are to suffer believe, is better, our officers are to be nullified when the national health officer comes in, and if the pestilence comes through a mistake, an honest mistake of his, when our regulations would prevent it, we suffer and nobody else.

Mr. HARRIS. Will the Senator from New York allow me to ask him a question?

Mr. KERNAN. Certainly.

Mr. HARRIS. Does the Senator from New York believe that in regulating commerce either with foreign nations or between the States Congress can discriminate between any two States or any two ports? Can Congress—

Mr. KERNAN. That is a fair question. Let me answer it. I believe there is a large class of powers, called police powers, powers to protect a port and its people from paupers and criminals and pestilence, that belongs to the States so long as Congress leaves it to the

States. That is to say, while Congress does not act the State laws are valid. I will not discuss how much they would have left if Congress intervened.

Mr. HARRIS. Will the Senator from New York allow me to ask him, if it be a regulation of commerce with foreign nations or among the respective States, can Congress discriminate between one State and another or one port and another?

Mr. KERNAN. I will answer the Senator. I believe, within the decisions of the Supreme Court, Congress may make regulations where the State fails to do so, but Congress is not compelled to make them where the State exercises those powers to their satisfaction.

Mr. HARRIS. That tempts me to beg the Senator from New York to allow me to ask him another question. If Congress should remain perfectly silent for all time to come, has any State in this Union power to regulate commerce with foreign nations and among the several States?

Mr. KERNAN. I do not claim that in the broad sense. If the Library were open, I could send for cases where the courts have said where Congress might take cognizance of the subject-matter under their power to regulate commerce the States might act till Congress interposed. Certainly State laws as to protecting themselves are perfectly valid, in the language of the court, so long as Congress does not choose to exercise its power.

Mr. HARRIS. May I inquire if those regulations do not apply to the State itself, and not to the commerce between one, two, or a dozen States?

Mr. KERNAN. But how are they upheld? Look at our State pilot laws. That is the very ground on which they are upheld. They allow us to appoint, and we do appoint and regulate the pilots that bring every ship of commerce into our harbor. The courts have said that is valid so long as Congress does not take charge of and regulate that subject. The State of New York has always regulated the license and appointment of pilots. I concede, if Congress should take charge of the subject, they might do so; but I say clearly I do not see why we may not make laws to protect us from the disease which is incident to the coming in of ships, and I say Congress is not called upon to act, and our State laws are valid unless Congress choose to say they will act. I shall not discuss the question how it would be then. I am only asking that we now legislate for those ports and those States where the people are so careless of their own health that they do not have a system of regulations for themselves in their commerce and from disease that may come in as an incident to commerce.

Mr. VOORHEES. Those States which neglect to make any laws are as powerful, as competent, and sufficient on that subject as those that do make laws. The States that make no regulations have exactly the same right to make no regulations as others have to make regulations. According to the doctrine which the Senator from New York has been arguing here, the Congress of the United States, the Federal Government, has no more right to enforce the inclination of a State which does nothing on this subject than it has to force the inclination of a State which has acted imperfectly. Is there any answer to that?

Mr. KERNAN. I think there is.

Mr. VOORHEES. Answer it, then.

Mr. KERNAN. I do not think it is a troublesome question. I mean to say that if Massachusetts chooses not to regulate the license and management of pilots who bring the commerce into her harbor, Congress ought to do so.

Mr. VOORHEES. By what power?

Mr. KERNAN. To regulate—

Mr. VOORHEES. By the power to regulate commerce independent of whether Massachusetts does it or not?

Mr. KERNAN. Wait a moment. I am not fighting this bill and there is no need of heat. I am giving my honest judgment in a case where the States will deal with this subject; States whose people must be sacrificed if it is not dealt with well. It is wise to leave it to them as it has been left to them in the past for nearly a hundred years of the Government, and if they will not protect themselves, and bring disease upon others, then I think it is time enough for Congress to attempt to establish a bureau of appointees, far away, to do as well as they can.

Mr. VOORHEES. Will the Senator from New York answer me one question? If a State has the right to make these regulations, so that Congress shall not interfere with that right—

Mr. KERNAN. Oh, I have not said that.

Mr. VOORHEES. Has she not the right to leave unmade those regulations, so that Congress shall not interfere?

Mr. KERNAN. My friend will allow me to answer him fairly. I am not saying that the States have a right that Congress may not interfere with; I am simply saying that it is one of those rights that the Supreme Court has said so long as Congress does not interfere with it, the States may, and their laws are valid. I am asking the Senate now, as we may make valid laws, that Congress shall not interfere, but leave us to protect ourselves as we have done in the past. I am asking Congress not now to interfere and strike down a system built up on our experience of seventy-five years, and put a bureau at Washington to send out experts and doctors to take care of us rather than let us select our own, as we have done.

Mr. VOORHEES. I am glad the Senator from New York modifies his position.

Mr. KERNAN. I do not modify it. That is what I said at first.

Mr. VOORHEES. The Senator from New York modifies it in this way: he does not answer the proposition whether it is correct that Congress cannot interfere with a State which has made regulations. I question whether Congress has the right to interfere with a State which makes regulations by saying she shall make none.

Mr. KERNAN. I have answered my friend, and I am not arguing the point that we have the exclusive right in the States and that Congress may not intervene.

Mr. VOORHEES. And that is where the Senator modified his position.

Mr. KERNAN. Not at all. I understand it. I once argued one of these cases in court, and therefore I have not made a mistake. I was talking about this as one of those questions as to which I assume that so long as Congress did not legislate the State might legislate on the subject. I did not propose to argue the proposition that Congress had not the right if it chose; I was arguing against the wisdom of their exercising it so long as the States exercised it.

Mr. VOORHEES. Then the Senator abandons the question of power?

Mr. KERNAN. I have not argued that.

Mr. VOORHEES. I have only a word or two to say, Mr. President. Under the Constitution the Federal Government has the power to regulate commerce; that means, of course, with foreign nations to protect ourselves. I believe on that question we have the power, whether a State makes regulations or makes no regulations, or makes imperfect regulations, to see to it that regulations of safety are made.

Mr. EDMUNDS. May I ask the Senator from Indiana a question on that point?

Mr. VOORHEES. Certainly.

Mr. EDMUNDS. I should like to ask the Senator from Indiana this question: Supposing the famous New York passenger-tax cases had arisen upon a law of the State that did not say, as the State law in that case did, that every captain of a vessel should pay in a certain tax, or head-money, on every passenger, but the law said that no captain of a vessel should bring into the State of New York a person who had the cholera or the yellow fever, and that then the question had been brought before the Supreme Court of the United States as to the validity of that law, would they have held that that was a regulation of commerce and that Congress alone had the right to determine whether people with the yellow fever should come into the State of New York?

Mr. VOORHEES. The Senator from Vermont puts a hypothetical case to me which he has studied and which I have not; and in such case the propounder of such a question always has the advantage. But I answer by saying that I presume the Supreme Court of the United States would not in such a case have excluded the power or right of everybody else to protect themselves besides the Federal Government. I presume the Supreme Court of the United States would not have decided that the city of New York or the State of New York had no right to protect itself; but at the same time I presume they would have decided that the Federal Government had the right to protect that port and every other port from such an intrusion of calamity as that which he suggests, and which would have resulted in not only the obstruction but the destruction of commerce. Further, I will say I am not arguing for an exclusive right on the part of the Federal Government. It is to be hoped that every power will be exerted to exclude these calamities, these diseases; but I say and hold that if a State fails to enact regulations excluding disease, or does it imperfectly—for either imperfectly or not doing it at all amounts to the same thing—the Federal Government has the power under the Constitution in regulating commerce to keep that black-death, cholera or yellow fever, away from our coast. The city of New York does not own the port of New York. The port of New York belongs to Indiana in her commercial relations with the world as much as it does to the city of New York.

Mr. EDMUNDS. Mr. President, the question of power is simply this: if the health laws of a State are not regulations of commerce then the State of New York would have had power to make the law in the passenger-tax cases, which were so famous that I alluded to them supposing that every Senator was perfectly familiar with the decision and with the principle upon which it proceeded. If the health laws are not regulations of commerce, then the State would have had a right to make a health law that no person having the yellow fever should be brought within the territory of the State of New York. Whether Congress said yes or no, would not make any difference, if a health law is not a regulation of commerce. If a health law is a regulation of commerce, then the Constitution says clearly that Congress alone shall have power to regulate commerce with foreign nations and among the several States. I have introduced the word "alone." It does not read so in the Constitution; but if I correctly understand the decisions of the Supreme Court they have held that the power to regulate commerce is an exclusive power, and it does not require that Congress should have acted upon the very subject in order to make an attempt at State legislation invalid.

Then the question is what is this power? The Constitution says

that no State shall impose any customs dues, or something of that kind, I do not remember the exact phrase, but that is the idea, and tonnage, &c., except those that are absolutely necessary for the execution of its inspection laws. What are the inspection laws of a State in that connection in the Constitution? I think those who will read the history of the adoption of the Constitution, and the debates upon it, as well as the history of law in this country, will agree that what is meant in the Constitution by inspection laws are those laws which relate to the preservation of the health and the internal police of the State in respect of the introduction of either persons or things that are injurious either to the health or the morals of the State in its judgment and opinion.

I submit then to the consideration of the Senate that a regulation of commerce which Congress has the unlimited and the exclusive power to make is not a regulation of health, and that when Congress undertakes to put the test not upon commercial intercourse as commercial intercourse, but upon intercourse the test of which is health, then it has stepped outside of its powers and into the powers that are expressly reserved to the States by the recognition of their rights even to impose taxes upon foreign intercourse so far as they are necessary to the execution of their inspection laws for health and the preservation of their morals.

Mr. VOORHEES. In the utmost good faith to the Senator from Vermont, I should like to ask him a question, and I appeal to him because of his superior experience and knowledge in the legislation of the country. Will he answer the Senate how a health regulation between this nation and the nations of the world can be established without affecting the regulations of commerce?

Mr. EDMUNDS. It cannot be but that it affects the regulations of commerce as a consequence; but it does not flow from the power to regulate commerce as a consequence of that. The right existing in the State to say no in respect of the introduction of any disease into its borders certainly affects commerce, because although Congress has the power to regulate commerce it must regulate commerce subject to that power of the State, because the Constitution recognizes in each State the power to protect the health of its own citizens, and provide for it. So far therefore as this power of the State may be constitutionally and lawfully exerted under its reserved powers and the recognition of the Constitution, so far there is a limitation upon the power of Congress to regulate commerce. That is to say, if a State says no man having the yellow fever shall come into its borders, Congress, under pretense of regulating commerce, has no right to say he shall, as it appears to me.

Mr. VOORHEES. Does the Senator from Vermont mean by this answer to say that where the treaties we have with foreign governments allow the introduction of goods to our shores and our ports, if the States have adopted nothing to prevent the plague, the cholera, small-pox, or yellow fever from coming here with goods, the Federal Government in its supreme power over this question cannot protect our citizens from the introduction of those diseases; that we rely entirely, in other words, upon whether the States act or do not act to protect us from the introduction of diseases? Do I understand that to be the Senator's position?

Mr. EDMUNDS. I have not said that, Mr. President. I simply say that in my humble judgment at this moment the Congress of the United States has no power to pass health laws as such. It has power to say that no goods at all shall be introduced into the country, if it has a mind to do it; and having that power it may say that playing-cards shall not come in. There may be a State law that says playing-cards are immoral things. We know there are laws, customs laws, respecting obscene books, for illustration. It does not follow from that, that Congress has power to regulate the morals of the whole people of the United States; but it simply says Congress has power to regulate customs, and it may say a particular class of objects, define and describe them as you may, shall not come in. But if Congress said they might come in, if the States should say they should not be received, I submit with great respect that the law of the State would override the law of Congress on that subject, and Congress could not by its commercial regulations enforce the introduction of obscene literature into any State in this Union, or enforce the introduction of a man having the yellow fever or the plague into a State against the law of the State. That is my position.

Mr. VOORHEES. The Senator from Vermont is illustrating his position by a piece of affirmative legislation on the part of the State. I illustrate it by the absence of legislation on the part of the State. I illustrate it by supposing that a vessel was coming to these shores with a cargo that was infected, and we had advice of that fact, and it was seeking a port in a State that had no legislation against the introduction of diseases. The doctrine of the Senator from Vermont would be that that vessel might land and spread broadcast disease and death.

Mr. MATTHEWS. It is proper to call the attention of the Senate to the language of the clause in the Constitution relied upon by the Senator from Vermont. It is in the first article, the tenth section, and reads thus:

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws—

I understand the Senator from Vermont to say that the inspection

laws means to include health laws. If so, I accept the interpretation. The clause then proceeds—

and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States—

Then it goes on to put an end to all this controversy in express words, for it declares—

and all such laws—

That is, all such inspection laws. That is what it says—

Mr. EDMUNDS. Oh, no; it says customs laws. That is what it means.

Mr. MATTHEWS. No; it does not. There is no such word in the clause.

Mr. EDMUNDS. There is no such phrase as "inspection laws" in the clause in that connection.

Mr. MATTHEWS. Yes, there is. That is just where the Senator is mistaken. The only laws spoken of in this clause are inspection laws. There are no other laws alluded to. There are no other laws mentioned. Then it goes on and says—

And all such laws—

That is, all laws of that kind which have been heretofore in this clause mentioned, namely, inspection laws—

shall be subject to the revision and control of the Congress.

The Senator need not shake his "gory locks" at me, if gory locks he has; for this is not an original interpretation which for the first time is put upon this clause. It is the interpretation put upon it by Mr. Story as a commentator on the Constitution in his Commentaries, and I never heard it doubted.

Mr. BECK. Mr. President, I have endeavored for the last two or three hours to obtain a vote on this bill, and have sought earnestly, perhaps not in the politest way possible, to obtain the attendance of Senators in order that a vote might be had, because I know that unless this bill is voted upon to-night the chances are it will not pass at all. While the bill may not accomplish all that its friends claim that it will, and perhaps there are provisions in it that ought to be stricken out or amended when you come to compare them critically with the provisions of the Constitution, yet the fact remains that a scourge such as perhaps this country never suffered from before prevailed all over the valley of the Mississippi last summer and fall, and thousands of the best people in that country were the victims of it. Many of my own particular friends fell.

When this Congress met last December there seemed to be a universal desire that something should be done to endeavor to prevent the recurrence of that scourge next summer. One of the most intelligent committees of the Senate was appointed to endeavor to devise some measure which might enable us to guard against it. They have reported the result of their deliberations after the most careful examination, and now in the last hours of the session we either have to aid them in doing what they say is the very best they can do, or we have to do nothing.

We may make a mistake; I do not like some of the provisions of this bill, and there may be amendments possible; but one thing is perfectly certain, that if we do wrong now in our effort to do right we can repeal the law and reverse our action. If we do nothing, and this scourge should come upon us again next year, as it may, and this Congress, notwithstanding the demand of the country and the recommendation of this committee; notwithstanding all the intelligent effort they have made to do something in that direction, should adjourn without seeking to give any relief or provide any, and the people should again suffer as they did last summer, I see no excuse that the members of this Congress can make to their people for failing to make at least some honest effort to do them some good.

I shall support the bill because I believe that the committee have done all they could, and have perhaps done the best they could; if they have done wrong they will be the first men who will seek to put it right. Believing that it would be criminal in Congress to adjourn without endeavoring to do something, I shall stand by the committee who report the measure as the only thing I can properly do.

Mr. President, if I were to go before my people having made no effort now, after the intelligent effort that the committee has made, and if this disease should again afflict them by reason of the want of action on the part of this Congress to guard against it, I should feel that I was criminal, because I had neglected to do the only thing I could do to attempt to give them relief. The bill may not be all that gentlemen desire who are seeking carefully to maintain a strict construction of the Constitution and of the rights and powers of the States, for both which I think I am as much of a stickler as any other Senator. It is certainly better than non-action, and we either have to act now or leave the great valley of the Mississippi, and perhaps the rest of the country, without any sort of protection or effort at protection against a recurrence of the terrible scenes and the terrible calamities which befell that people last summer. Therefore I shall vote with the committee, right or wrong.

Mr. HILL. Mr. President, I am not going to detain the Senate. I simply wish to say that I shall vote for this bill because it is an experiment, and because the motive of it is good, and I think the country expects something of the kind, and has a right to expect it. But I am not willing to vote for the bill without leaving on record my apprehension that there is nothing good in it except to create some

offices. I fear it is not going to do anything toward preventing the yellow fever. While I am in doubt on this question, I must give the benefit of the doubt to the bill and vote for it, but I must confess that I am in doubt about my vote.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New York, [Mr. KERNAN.]

The question being put, there were on a division—ayes 13, noes 17; no quorum voting.

Mr. HARRIS. Mr. President, if this bill fails—

Mr. DAVIS, of Illinois. I think there is a quorum here when Senators come in from the cloak-room.

Mr. EDMUNDS. Order, Mr. President.

Mr. EATON. I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. PLUMB. On this question I am paired with the Senator from South Carolina, [Mr. BUTLER.] If he were present, I should vote "yea."

The roll-call having been concluded, the result was announced—yeas 18, nays 19; as follows:

YEAS—18.			
Allison,	Edmunds,	McMillan,	Spencer,
Booth,	Ferry,	Morgan,	Teller,
Cameron of Pa.,	Hill,	Oglesby,	Thurman.
Coke,	Ingalls,	Rollins,	
Eaton,	Kernan,	Saunders,	

NAYS—19.			
Bailey,	Davis of Illinois,	Jones of Florida,	Merrimon,
Beck,	Eustis,	Kellogg,	Paddock,
Cameron of Wis.,	Garland,	Kirkwood,	Ransom,
Cockrell,	Gordon,	Lamar,	Voorhees.
Conover,	Harris,	Matthews,	

ABSENT—39.			
Anthony,	Davis of W. Va.,	Jones of Nevada,	Sargent,
Barnum,	Dawes,	McCreery,	Saulsbury,
Bayard,	Dennis,	McDonald,	Sharon,
Blaine,	Dorsey,	McPherson,	Shields,
Bruce,	Grover,	Maxey,	Wadleigh,
Burnside,	Hamlin,	Mitchell,	Wallace,
Butler,	Hereford,	Morrill,	Whyte,
Chaffee,	Hoar,	Patterson,	Windom,
Chandler,	Howe,	Plumb,	Withers.
Conkling,	Johnston,	Randolph,	

The PRESIDING OFFICER. There is no quorum voting.

Mr. HARRIS. Mr. President, if non-action is to be produced by the want of a quorum it shall be no fault of mine. I move a call of the Senate. Let this bill be disposed of one way or the other, according to the judgment of the Senate.

Mr. EDMUNDS. It is the duty of the Chair, under the rule, to have the roll called.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary proceeded to call the roll, and the following Senators answered to their names:

Allison,	Eaton,	Kellogg,	Plumb,
Bailey,	Kernan,	Kirkwood,	Ransom,
Beck,	Eustis,	Lamar,	Rollins,
Booth,	Ferry,	McMillan,	Saunders,
Cameron of Pa.,	Garland,	Matthews,	Spencer,
Cameron of Wis.,	Gordon,	Merrimon,	Teller,
Cockrell,	Harris,	Morgan,	Thurman,
Coke,	Hill,	Oglesby,	Voorhees,
Conover,	Ingalls,	Paddock,	Wadleigh.
Davis of Illinois,	Jones of Florida,		

Mr. BAILEY. I wish to announce that the Senator from New Jersey [Mr. RANDOLPH] is confined to his room by sickness.

The PRESIDING OFFICER. Thirty-nine Senators have answered to their names. There is a quorum present. The question is on the amendment offered by the Senator from New York, [Mr. KERNAN,] upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. WADLEIGH, (when his name was called.) The Senator from Delaware, [Mr. SAULSBURY,] with whom I am paired, is not here, but I know him to be in favor of this bill; and if my vote would make a quorum, I would vote either one way or the other, as I believe that would be his wish. I refrain from voting, inasmuch as my vote would not make a quorum.

The call of the roll was concluded.

Mr. KELLOGG. I ask that the names of those answering a few moments since as being present and who are not voting on the amendment be called.

The PRESIDING OFFICER. The Senate is dividing.

Mr. KELLOGG. There is a quorum present.

Mr. THURMAN. Is there not a quorum voting?

Mr. KELLOGG. No; but there is a quorum present in the Chamber.

Mr. EDMUNDS. Let us have the result announced.

Mr. ALLISON. The trouble is that there are pairs.

The PRESIDING OFFICER. The result will be announced before any motion is entertained.

The result was announced—yeas 17, nays 19; as follows:

YEAS—17.			
Allison,	Eaton,	Morgan,	Teller,
Booth,	Edmunds,	Oglesby,	Thurman.
Cameron of Pa.,	Hill,	Rollins,	
Coke,	Kernan,	Saunders,	
Davis of Ill.,	McMillan,	Spencer,	

NAYS—19.

Bailey,	Eustis,	Jones of Florida,	Merrimon,
Beck,	Ferry,	Kellogg,	Paddock,
Cameron of Wis.,	Garland,	Kirkwood,	Ransom,
Cockrell,	Gordon,	Lamar,	Voorhees.
Conover,	Harris,	Matthews,	

ABSENT—40.

Anthony,	Davis of W. Va.,	Johnston,	Randolph,
Barnum,	Dawes,	Jones of Nevada,	Sargent,
Bayard,	Dennis,	McCreery,	Saulsbury,
Blaine,	Dorsey,	McDonald,	Sharon,
Bruce,	Grover,	McPherson,	Shields,
Burnside,	Hamlin,	Maxey,	Wadleigh,
Butler,	Hereford,	Mitchell,	Wallace,
Chaffee,	Hoar,	Morrill,	Whyte,
Chandler,	Howe,	Patterson,	Windom,
Conkling,	Ingalls,	Plumb,	Withers.

The PRESIDING OFFICER. There is not a quorum voting.

Mr. EDMUNDS. I hope now that the Senator from Tennessee in charge of this bill will make the motion to direct the Sergeant-at-Arms to bring in the absent Senators, and let us dispose of this bill.

Mr. HARRIS. Mr. President, I make that motion, that the Sergeant-at-Arms be directed to bring in absent Senators.

The PRESIDING OFFICER. The Chair will remark that it appears from this vote that there is no quorum present. It appeared on the last call of the Senate that there was a quorum.

Mr. VOORHEES. If it has been disclosed by a recent vote that there is a quorum present, and not on the vote just taken, it is all the more proper that the motion of the Senator from Tennessee should prevail. The Sergeant-at-Arms should bring in those that are not present.

Mr. EDMUNDS. At any rate the motion is not in order and is not subject to debate. I hope the Chair will put it.

The PRESIDING OFFICER. It is moved that the Sergeant-at-Arms be directed, in the language of the motion, to bring in the absent Senators.

Mr. MERRIMON. I rise to a question of order, Mr. President. I raise this question of order—

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. MERRIMON. I insist that it is not competent for the Senate to order a Senator to be brought in until he shall first have been requested to come.

Mr. VOORHEES. Why?

Mr. MERRIMON. Because the rule so provides.

Mr. VOORHEES. Show the rule.

The PRESIDING OFFICER. The Chair will read the rule.

No Senator shall absent himself from the service of the Senate without leave of the Senate first obtained. Whenever it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant-at-Arms to request, and, when necessary, to compel the attendance of the absent Senators.

Mr. VOORHEES. I think it is necessary.

Mr. EDMUNDS. Anybody that thinks it is necessary will vote this way.

Mr. HARRIS. Mr. President, I modify my motion to direct the Sergeant-at-Arms to request, and, if necessary, to bring to the Senate Chamber the absent Senators.

Mr. RANSOM. Mr. President, I hope my friend from Tennessee—

The PRESIDING OFFICER. The Chair would remark to the Senator from North Carolina that this motion is not debatable.

Mr. RANSOM. Oh, I was not aware of that, Mr. President; I simply wished to request my friend from Tennessee, for I sympathize with his anxiety to pass this bill, to put the first part of his motion "to request the absent Senators to attend the Senate."

The PRESIDING OFFICER. The Senator from Tennessee has heard the suggestion of the Senator from North Carolina. Does he modify his motion accordingly?

Mr. HARRIS. Mr. President, if the Senate is going to dispose of the business or half the business that is before it and demands its attention, Senators must remain in the Chamber; and if my motion is in order, I leave it as I put it.

Mr. THURMAN. As there seems to be some debate allowable on this subject, I beg to submit a remark before the adoption of the rule which has been read. There never was any rule in the Senate to compel the attendance of absent Senators, although the Constitution confers that power upon the Senate. It was assumed that Senators would discharge their duty and that a simple notification to them that there was an absence of a quorum would bring them to the Senate Chamber. That rule was adopted only about two years ago; and now it does seem to me that the spirit of that rule requires that Senators should first be requested to attend, that they should be notified that there is no quorum, and should be requested to attend. I do not think that a person holding the position of a Senator of the United States ought to be treated as a criminal if absent, and it ought not to be assumed that when he is informed there is no quorum he will not attend so that there may be a quorum. I think, therefore, that that is the proper motion; and, besides, "if necessary," says the rule, "to compel their attendance." Who is to judge of that necessity? Certainly the Senate must judge. Must the messengers sent out by the Sergeant-at-Arms, the hackmen of the city of Washington, determine whether it is necessary to take a Senator by force?

Mr. HARRIS. The Senator from Ohio will allow me to interrupt him. I am inclined to think upon reflection that the motion in the exact form that I put it is hardly in order; that is, to make the Sergeant-at-Arms the judge as to whether it is necessary or not to bring Senators here. Hence I modify my motion so as to provide that the Sergeant-at-Arms shall be directed to request the attendance of Senators, first, and when that request has been made, if there shall not be a quorum here, I shall then feel inclined to follow it up with a motion to bring them.

Mr. THURMAN. Then I stand by the Senator from Tennessee if he keeps us here twenty-four hours.

The PRESIDING OFFICER. The Senator from Tennessee moves that the Sergeant-at-Arms be directed to request absent Senators to attend the session of the Senate.

Mr. EDMUNDS. If it is in order to make any further remark, I wish to express my regret that the Senator from Tennessee has modified his motion. The question of necessity is a question for the Senate to decide in the very act of voting whether it will direct the Sergeant-at-Arms to compel, by ordering him to bring in, the absent Senators. Here we are in the last seven days, counting Sunday, I believe of the session, and we find ourselves on a bill of importance, although in a certain sense of only local importance, but stopping all other legislation, without a quorum of the Senate only at eleven o'clock at night, and I think the Sergeant-at-Arms ought to be directed to compel, that is to say to bring in—which is the parliamentary phrase I believe—every absent Senator, and unless the Senators who do not come shall furnish an excuse, they should be dealt with. Many are sick; the families of some Senators are sick that I have heard mentioned in the course of the evening; but if we are to go on with the business of the country in the way the country expects us to do, we ought not to go on with a mere majority, but gentlemen ought to be required to be here and attend to the public business as those of us who are here present do to the best of the ability we have, and the result will be that any Senator at this time of night who is requested to come here may come or he may not, and at one or two o'clock we may find ourselves in the same condition we are in now.

Mr. DAVIS, of Illinois. Mr. President, I believe there is a quorum in this room now.

Mr. HARRIS. I will say to the Senator from Vermont that I modified my motion because upon reflection I doubt very much whether the motion in the exact form I put it in the beginning was in order; that is to say, I doubt whether the Senate at this stage of the proceedings, before it has requested, can determine the question that it is necessary to bring in absentees in the language of the rule.

Mr. VOORHEES. If the Senator from Tennessee will pardon me for interrupting him I should like to ask what can be a better evidence of the necessity of compelling the attendance of Senators than the fact that we are here at eleven o'clock at night on a question of the greatest possible importance without a quorum.

The PRESIDING OFFICER. The question is on the motion of the Senator from Tennessee.

Mr. HARRIS. Then, with the permission of the Senate I will state that I will test the question of the judgment of the Senate by putting the motion in the original form that I put it, that the Sergeant-at-Arms be directed to request the attendance, and if necessary to bring in absent Senators.

Mr. EDMUNDS. That will not do because that leaves it discretionary.

Mr. HARRIS. The Senator from Vermont says that will not do. Will the Senator from Vermont tell me what will accomplish the object?

Mr. EDMUNDS. I will state that I think that is not right because that leaves the discretion with the Sergeant-at-Arms. We have no right to repose such a discretion in him. The very fact that we are here without a quorum at this time of night and at this stage of the session, is sufficient to my mind that it is necessary to compel the absent Senators to come, and they can make the proper excuse afterward. Therefore, the vote that the Sergeant-at-Arms be directed to bring in absent Senators, is a vote that is necessary; and let that order be executed.

Mr. HARRIS. Then, Mr. President, I will so modify the motion. My motion now is that the Sergeant-at-Arms be directed to bring in absent Senators, and let the Senate decide the question whether we shall now determine that that necessity exists.

Mr. MERRIMON. I raise my question of order. I insist that before the Senate can order a Senator to be brought in he must first be requested to come, under the rule according to its letter and spirit. And then, sir, in view of what is right and proper and due as a matter of courtesy, if on no other ground, I want to say for one that I do not believe a single Senator is absent willfully.

Mr. RANSOM. Not one.

The PRESIDING OFFICER. A question of order is raised by the Senator from North Carolina, [Mr. MERRIMON.]

Mr. GARLAND. I wish to be heard.

The PRESIDING OFFICER. The rule requires that all questions of order shall be decided without debate.

Mr. GARLAND. I want to submit to the Senator from North Carolina a case where his point of order would apply just as well. I want to substitute for the motion of the Senator from Tennessee a motion

that the Sergeant-at-Arms be directed to compel the attendance of the absent Senators.

The PRESIDING OFFICER. In the language of the rule?

Mr. GARLAND. Yes, sir; I move that as a substitute for the motion made by the Senator from Tennessee. Now, the point of order made by the Senator from North Carolina will attach as well to my motion as I understand it. I should like to say a very few words.

The PRESIDING OFFICER. Is there objection?

Mr. GARLAND. I am aware it is not debatable, but I ask unanimous consent to be heard.

The PRESIDING OFFICER. The Chair hears no objection. The Senator from Arkansas may proceed.

Mr. GARLAND. The language of the rule is that a majority of the Senators present may direct the Sergeant-at-Arms to request and, when necessary, to compel the attendance of the absent Senators. The question of the necessity of compelling the attendance of Senators is one that is always present and before the present Senators. It is not necessary for the Senate to enter a rule *nisi* against these absent Senators to show cause why they are not here, or to enter a rule of contempt against them; but the question of whether or not there is a necessity for their attendance is always in hand before the Senate, whether it comes before or after the request. Now, we are here at eleven o'clock at night—

Mr. FERRY. Past eleven.

Mr. GARLAND. We have had half a dozen different calls of the Senate, and it has been disclosed that we have no quorum. Now, will the Senator from North Carolina tell me when it becomes necessary to direct the Sergeant-at-Arms to compel the attendance of absent Senators in the language of this rule? As to the propriety of this rule, as to when it was adopted, and the cause of its adoption, I know nothing, and care less; but here is the rule that when the majority of the Senators present deem it necessary they may direct the Sergeant-at-Arms to compel the attendance of absentees. Now it is for the Senate to say when that necessity exists; and if it does not exist at this particular time, at this juncture, in my judgment it will not exist any more during the remainder of this short session.

Mr. MERRIMON. May I be permitted to say a word? I was on the committee—

Mr. OGLESBY. The Senator from North Carolina will pardon me for interposing a question to the Chair. Will a motion to amend the motion of the Senator from Arkansas be in order?

The PRESIDING OFFICER. The Senator from Arkansas has made his motion in the language of the rule, and the present occupant of the chair is of the opinion that a motion to amend that would not be in order.

Mr. OGLESBY. I propose to submit one if it be in order.

The PRESIDING OFFICER. The Chair for the present would decide that it is not in order.

Mr. OGLESBY. I think I have a right to state the motion.

Mr. RANSOM. Does the Chair think the present question is divisible—that the first part of the proposition should come up first?

The PRESIDING OFFICER. The motion is that the Sergeant-at-Arms be directed to compel the attendance of absent Senators.

Mr. MERRIMON. I submit that the first question to be decided is the question of order. I was on the committee that codified the rules as they now stand, and I well remember the discussion over this rule. I have seen one of the committee to-night, and his recollection concurs with my own. I know that it was intended that this power of compulsion could be resorted to only in cases of necessity. It was a departure from the practice of the Senate from the beginning of the Government down to the adoption of these rules to compel or provide for compelling the attendance of a Senator when he was absent. It was the purpose of the committee in framing the rule to pursue the course I have indicated: first, to request respectfully a Senator's attendance; and then after the request had been made, if a Senator should disobey it or disregard it, to leave it in the power of the Senate to take the extreme step of compelling the attendance of a Senator.

Mr. VOORHEES. Allow me to ask a question.

Mr. MERRIMON. Certainly.

Mr. VOORHEES. Does the Senator from North Carolina say he construes the rules of this body to mean that we have, first, as he expresses it, to "respectfully request" the attendance of a member of this body to make a quorum when the rest of us are struggling to do the business of this country, and after we have sent a man to a Senator and he sends word back to our respectful request that he will not come, or cannot come, then we will take into consideration the necessity of compelling him to come? I want to know in a practical way, not theoretically but practically, in regard to the business of the country, whether that is the construction—

Mr. BOOTH. I rise to a point of order.

The PRESIDING OFFICER. The Senator from California rises to a point of order, which he will state.

Mr. BOOTH. I make the point of order that this question is not debatable.

The PRESIDING OFFICER. The Chair has so stated.

Mr. BOOTH. I stand, then, by that decision, and ask that it be enforced.

The PRESIDING OFFICER. The Senator from California objects to further debate.

Mr. ALLISON. Then I desire to make a point of order.
The PRESIDING OFFICER. There is one point of order pending, and until that is decided perhaps it would be as well for the Senator from Iowa not to raise another.

Mr. ALLISON. It was a point of order with reference to the point of order pending that I desired to make.

Mr. BOOTH. I object.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. HARRIS] moves that the Sergeant-at-Arms be directed to compel the attendance of absent Senators, and the Senator from North Carolina [Mr. MERRIMON] raises the point of order upon the motion that it is not in order to direct the Sergeant-at-Arms to compel the attendance of absent Senators until he is first directed to request their attendance and they decline or refuse to attend. The Chair will submit that question to the Senate.

Mr. ALLISON. Now, before that question is submitted I desire—
Mr. MERRIMON. If we are to have debate, I think I ought to be heard on that point of order.

Mr. ALLISON. I desire to submit a further point of order, that on the last call there was a quorum present.

Mr. EDMUNDS. That does not make any difference.

The PRESIDING OFFICER. That does not make any difference, because the rule provides that when it is disclosed there is not a quorum present a majority of the Senators present may direct the Sergeant-at-Arms to request, and when necessary to compel, the attendance of absent Senators.

Mr. ALLISON. That can only be disclosed by a call of the Senate.

Mr. RANSOM. Will the Senator from Iowa give way to me one second? I desire to say to my friend from Tennessee who has this bill in charge that I hope—

Mr. BOOTH. What becomes of my point of order?

Mr. RANSOM. I am not going to debate.

Mr. BOOTH. I ask what becomes of my point of order?

The PRESIDING OFFICER. The Chair held that the point of order was well taken.

Mr. BOOTH. Very well, then I ask for a vote on the question. I object to debate or discussion.

Mr. VOORHEES. I come to the support of the Senator from California and insist on his point of order with him.

Mr. THURMAN. The Chair, I believe, submits the question to the Senate. That makes it debatable.

Mr. RANSOM. I desire to submit a motion to the Senate which is in order.

Mr. VOORHEES. The Chair did not submit the point of order, as I understand.

The PRESIDING OFFICER. The Chair stated that he would submit it, but so many Senators claimed the floor that he did not have an opportunity of submitting it. He will do so now, however.

Mr. RANSOM. And now is it in order for me—

Mr. BOOTH. I object to debate.

Mr. RANSOM. I beg leave to say that the motion of the Senator from California is out of order.

Mr. BOOTH. When the question is stated it will be open to debate; but I submit that until it is stated no Senator has a right to discuss it.

Mr. RANSOM. I am not discussing the question.

The PRESIDING OFFICER. If the Senator from North Carolina—

Mr. RANSOM. I desire to submit a motion to the Senate which is in order.

The PRESIDING OFFICER. If the Senator from North Carolina will give way for a moment until the Chair has an opportunity to state the question, it will then be debatable.

Mr. RANSOM. I intend to make a motion not affecting the proposition the Chair intends to submit to the Senate. I desire to make a suggestion to the Senator from Tennessee.

Mr. VOORHEES. There is a motion already pending made by the Senator from Tennessee, which cannot be displaced by a motion by any other Senator.

The PRESIDING OFFICER. The question which the Chair will submit to the Senate is, is the point of order as stated by the Chair well taken? Those who are of opinion that it is well taken will say "ay," those of the contrary opinion "no," [putting the question.]

Mr. MERRIMON. The matter is debatable now.

The PRESIDING OFFICER. The question is debatable now.

Mr. MERRIMON. I gave a moment ago the history of this rule. I know what the intention was, and I think the purpose of the committee has been effected. Any Senator who will turn to the rule will find from the punctuation that there was a purpose to make two distinct propositions in bringing recalcitrant Senators to a discharge of their duty. First, it is provided that—

A majority of the Senators present may direct the Sergeant-at-Arms to request,—

There is a comma; there is one proposition; there is one provision distinct from another which follows, which is—

and when necessary to compel the attendance of the absent Senators, which order shall be determined without debate.

Now, I maintain that there are two successive propositions; that each has a separate working, that each requires a different proceeding; that one proceeding precedes in order the other, and the pre-

cedent one required must be taken before the subsequent one can be taken. Then, Mr. President, I want to say another word.

Mr. BECK. Mr. President—

Mr. MERRIMON. I trust my friend from Kentucky will wait. I believe in the doctrine of doing unto others as I would they should do unto me. I do not believe there is a Senator absent from the Senate to-night willfully. It has not been the practice of the Senate at any period in the history of the Government to take such extreme proceedings as this, and if any Senator had contemplated that such proceedings would be taken against him he would be here. I do not doubt that every Senator who is found to be absent, and who shall be brought here under the motion proposed by the Senator from Tennessee, will be exceedingly hurt; he will feel that a discourtesy has been done him by the Senate; and under the circumstances, in view of the lateness of the hour, and as the Senate is scarcely in good temper enough to proceed to execute so stringent a power as this, I hope we shall pause and consider.

I believe, sir, that the point of order I have made is well made. And besides all that, even if the Senate had the power, I do not think it ought to be exercised on the present occasion.

Mr. BECK. Mr. President, I regard the motion made by the Senator from Tennessee as more respectful to absent Senators than the suggestion made by the Senator from North Carolina. If we adopt the suggestion of the Senator from North Carolina, first to request them to come, then we are bound to say that it is because of their default that the next motion follows to compel them to come. The motion of the Senator from Tennessee is based upon the idea that we have, perhaps unconsciously to the absent Senators, found ourselves without a quorum, and the necessity existing in order to carry on business to have them here, therefore, without reflecting upon them as to the cause of their absence, the necessity having been found in the Senate to have them present, we send for them. There is no reflection upon absent Senators by requiring the Sergeant-at-Arms to bring them here; but there would be a reflection, and a personal reflection, upon each man if we were first to request him and then compel his attendance, because compulsion would arise out of the fact that he refused to obey the request of the Senate. So without entering, as the Senator from Arkansas said, a decree *nisi*—"If you do not come, then we will send an absolute decree against you"—we have said that we have found from the condition of the business of the Senate that we cannot get along without you, and therefore we order the Sergeant-at-Arms to bring you here. That grows out of the condition of our business, and not out of any default of yours.

I think that what the Senator from North Carolina contends for is simply passing a disrespect upon the absent members, instead of the respect that he thinks they are entitled to have first observed. The order does not arise from any apprehension that they have left because of the belief that the Senate could get along without them, but arises from the fact that the business of the Senate, which perhaps they were ignorant of at the time they left, makes it necessary that they should be here.

Mr. THURMAN. What is the meaning of compelling an absent Senator to attend? It is that he shall be brought here in the custody of the Sergeant-at-Arms and shall make his excuse at the bar of the Senate. That is the meaning of it. He may be sick; he may have paired; his family may be sick; anything whatever that would afford a sufficient excuse may have happened that prevents his attendance; and yet, notwithstanding all that, he is to be brought here in the custody of the Sergeant-at-Arms and make his excuse at the bar of the Senate. That is the meaning of compelling the attendance of Senators. That, sir, never has been done. The Senator from North Carolina is perfectly right in saying that this is the first time in the history of this country where an attempt has been made to compel the attendance of Senators without first requesting their attendance. The Sergeant-at-Arms cannot be the judge of whether they have a sufficient excuse or not. You cannot give him power to first request their attendance or their excuse, and if he in his judgment, or his messenger, thinks the excuse is insufficient, then to take them in custody and bring them here to make their excuse at the bar of the Senate. No, Mr. President; that will not do.

There is a deeper question than this mooted by the Senator from Iowa, [Mr. ALLISON,] and that is this: the Constitution provides that "a majority of each" House "shall constitute a quorum to do business, but a smaller number"—that is, a smaller number than a majority—"may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide." Now, the Senate has provided by this rule—

Mr. VOORHEES. Will the Senator read that last clause of that rule? My attention was diverted. Will he read the last clause again?

Mr. THURMAN. I am not reading the rule; I am reading the supreme rule of the Constitution.

Mr. VOORHEES. It is a rule to me.

Mr. THURMAN. "But a smaller number"—that is, less than a majority—"may adjourn from day to day, and may be authorized to compel the attendance of absent members in such manner and under such penalties as each House may provide." That is to say, less than a quorum may do that. There is no provision here that when there is a quorum you may compel the attendance of absentees; but when

there is less than a quorum, in order to procure a quorum you may compel the attendance of absentees.

Now, Mr. President, there was a call of the Senate; there was a quorum present; immediately following that there was not a quorum voting by yeas and nays on an amendment. What does that prove? Does it prove that there was not a quorum in the Senate? No, sir; it proves that a quorum did not vote. That is all that it proves. I recollect a memorable night in this Senate when four of us sat in yonder corner and refused to vote, and there was no quorum voting, although on a call of the Senate there was a quorum in the Chamber at the very time that vote was taken. At the very time the last list of yeas and nays was taken there was a quorum in the Senate; but there were pairs, and therefore there was no quorum voting. Now, when there is a quorum in the Senate, is there any power to compel the attendance of absentees? I say, as the Senator from Iowa suggested, that the proper motion was for a call of the Senate to see whether there was a quorum. But, Mr. President, if there is no quorum, then I would say that the true spirit of this rule is that we shall request the attendance of absent Senators before we undertake to put them in the custody of the Sergeant-at-Arms.

Mr. President, for more than seventy years there was no such thing as an attempt to compel the attendance of an absent Senator; he was simply requested. It was supposed that a Senator was of too high a character to neglect his duty, and I hope the example will not be set now of treating him as a criminal in this way.

Mr. VOORHEES. Will the Senator from Ohio allow me to ask him a question? Suppose now after seventy years' experience it is proved that Senators will absent themselves, leaving those who are devoted to public duty here without a quorum; would he allow those Senators to be able to break a quorum and destroy the public business?

Mr. THURMAN. I will answer the question, sir. No; I will sit here till twelve o'clock to-morrow till these absentees are brought in.

Mr. VOORHEES. I would compel them a good many hours before that if I had the power.

Mr. THURMAN. So will I if they do not come after being requested. I will sit here till twelve o'clock to-morrow, or eleven o'clock, when the new senatorial day commences, in order to compel these Senators to appear; but first I will comply with the spirit of the rule and the usages of this body by sending them a request to attend, believing that they will attend.

Mr. BECK. I desire to ask the Senator from Ohio one question. Does not the Senator from Ohio think it is more polite even to the absent Senators to say that the public business makes it necessary to compel them to attend than it would be to compel them to attend after they had declined to come on a request of the Senate?

Mr. THURMAN. No, Mr. President. The other night I was absent because I was paired with a sick Senator, a Senator confined to his bed. The messenger of the Sergeant-at-Arms came to me. I sent a polite note to the Sergeant-at-Arms, saying that I was paired, but that if my attendance were necessary to make a quorum I would attend. Another messenger came and I did attend. But if the Sergeant-at-Arms had first taken me in custody I should have felt outraged.

Mr. DAVIS, of Illinois. Mr. President, if we talk about this point of order much longer our absent friends will get their breakfasts. [Laughter.]

The PRESIDING OFFICER, (Mr. FERRY in the chair.) The question is, Is the point of order raised by the Senator from North Carolina [Mr. MERRIMON] well taken?

Mr. MERRIMON. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. THURMAN. I ask that the Chair state the form in which this question is to be put.

The PRESIDING OFFICER. The Senator from Kentucky has moved the enforcement of the rule that Senators be compelled to attend the session of the Senate. The Senator from North Carolina then raised the point of order that they should be requested before being compelled. That point of order has been submitted to the Senate. The question is, Is that point of order well taken?

Mr. THURMAN. What is the question? Is the point of order well taken? Is that it?

The PRESIDING OFFICER. Is the point well taken?

Mr. THURMAN. Is that the question?

The PRESIDING OFFICER. That is the question.

Mr. EATON. I desire to suggest a question to the Chair. Having perfect confidence in the knowledge of rules the Chair has, is any of this in order? [Laughter.]

The PRESIDING OFFICER. Hardly.

Mr. EATON. I thought so.

The PRESIDING OFFICER. The Senator from Connecticut included. [Laughter.]

Mr. ALLISON. I make the point of order that this motion is not debatable until we shall have had a call of the Senate to ascertain whether there is a quorum or not.

The PRESIDING OFFICER. That will be ascertained by the yeas-and-nay vote.

Mr. BECK. I desire to say, Mr. President, that I did not make any motion about compelling absentees to attend. I made a suggestion several hours ago and withdrew it.

Mr. CAMERON, of Wisconsin. The motion was made by the Senator from Tennessee, [Mr. HARRIS.]

The PRESIDING OFFICER. The present incumbent was not occupying the chair then. He supposed the motion was made by the Senator from Kentucky.

Mr. GARLAND. The Senator from Tennessee made the original motion, but substituted for it the use of the language of the rule that the Sergeant-at-Arms be directed to compel the attendance, and upon that the Senator from North Carolina raised the point of order.

Mr. HARRIS. I accept the modification suggested by the Senator from Arkansas, if I am at liberty to do so.

Mr. MERRIMON. The question is the same.

Mr. PADDOCK. Would it be in order now for the Senator who made the motion to withdraw it?

The PRESIDING OFFICER. Not without unanimous consent. The roll-call will proceed.

Mr. SAUNDERS. I believe a vote in the affirmative will say that the absentees should be requested first.

The PRESIDING OFFICER. The Senator is correct. The call will proceed.

The Secretary proceeded to call the roll.

Mr. MERRIMON, (when the name of Mr. WHYTE was called.) I desire to state in behalf of the Senator from Maryland [Mr. WHYTE] that he is paired with the Senator from Maine, [Mr. BLAINE.]

The roll-call having been concluded, the result was announced—yeas 24, nays 12; as follows:

YEAS—24.

Allison,	Eustis,	McMillan,	Ransom,
Bailey,	Ferry,	Matthews,	Saunders,
Cameron of Pa.,	Gordon,	Merrimon,	Spencer,
Cameron of Wis.,	Hill,	Morgan,	Teller,
Davis of Ill.,	Kellogg,	Oglesby,	Thurman,
Eaton,	Kernan,	Paddock,	Wadleigh.

NAYS—12.

Beck,	Coke,	Harris,	Plumb,
Booth,	Conover,	Jones of Florida,	Rollins,
Cockrell,	Garland,	Kirkwood,	Voorhees.

ABSENT—40.

Anthony,	Davis of W. Va.,	Ingalls,	Patterson,
Barnum,	Dawes,	Johnston,	Randolph.
Bayard,	Dennis,	Jones of Nevada,	Sargent,
Blaine,	Dorsey,	Lamar,	Saulsbury,
Bruce,	Edmunds,	McCreery,	Sharon,
Burnside,	Grover,	McDonald,	Shields,
Butler,	Hamlin,	McPherson,	Wallace,
Chaffee,	Hereford,	Maxey,	Whyte,
Chandler,	Hoar,	Mitchell,	Windom,
Conkling,	Howe,	Morrill,	Withers.

The PRESIDING OFFICER. No quorum voting, the Secretary will call the roll of the Senate.

Mr. RANSOM. Is a motion now in order?

The PRESIDING OFFICER. It is not till the roll is called.

Mr. HILL. Mr. President, I rise to a question of order. It seems to me that the question we are now discussing can be passed upon by less than a quorum. If it cannot, the rule, with all respect to the Chair, it seems to me, is nonsense. Less than a quorum has the power to compel the attendance of absent Senators. We are determining now whether we can compel before requesting or after requesting. Of course the power that has authority to compel must have the authority to determine how it will compel and the means by which it will get the absent Senators here. If we had a quorum here this whole proceeding would be unnecessary. It is because a quorum is not here that we are determining to request or compel the attendance of absentees; and to say that a quorum has got to vote on a question of whether you will send for absentees or not makes the rule a nullity. I respectfully submit, therefore, that this question of sending for absentees and as to the method of sending for absentees is a question that less than a quorum can determine.

Mr. MERRIMON. A majority of the Senators present have sustained the point of order, and they have decided that in order to reach the Senators who are absent from the Senate, in the first place it is necessary to send a request—

Mr. VOORHEES. Can less than a quorum decide a point of order?

Mr. MERRIMON. I think so.

Mr. PADDOCK. Is debate in order?

Mr. CAMERON, of Wisconsin. Mr. President, I wish to make one observation, and I will refer to a point of order that was raised by the Senator from Iowa, and the same point of order was referred to by the Senator from Ohio, which is that after it appears upon a roll-call that there is not a quorum present, if that be developed upon a vote, still the roll must be called for the purpose of ascertaining whether or not there is a quorum present, and the Chair appears to be of that opinion also by directing that the roll be called when it appears from the last vote taken that there is not a quorum present. Rule 2 provides:

If either at the commencement of any daily session of the Senate, or at any time during its daily session, a question shall be raised by any Senator as to the presence of a quorum, the presiding officer shall forthwith direct the Secretary to call the roll of Senators, &c.

That proceeds upon the idea that the roll has not been called and it has not been definitely ascertained whether there is a quorum present or not. If any Senator raises the question, then the Chair shall direct that the roll be called. The next rule, Rule 3, provides:

Whenever it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant-at-Arms, &c.

I say that when a vote is taken and it appears that a quorum has not voted, then it does appear that there is not a quorum present, and it is not necessary for the presiding officer to direct that the roll be called.

Mr. THURMAN. Mr. President, I wish to say a single word. Less than a majority of the Senate has the power to request the attendance of absent members or to compel them to be present. It must necessarily follow that less than a majority, when the question is submitted to them by the Chair, have a right to decide all incidental questions upon which the order of the Senate for a request or for compelling the members to attend must depend. The Chair himself would have the right to say whether the point of order taken by the Senator from North Carolina was well taken or not; and if the Senate cannot decide that question upon its submission by the Chair, then the Chair himself can decide it. It must be that upon a question which is purely incidental to the power of the Senate to compel the attendance of absent members less than a quorum can decide that question.

Mr. GARLAND. I differ with the Senator from Ohio entirely upon this question. The difficulty now arises from our not adhering to the original principles lying at the very bottom of the question. The rule about requesting to attend, I expect, got into the book of rules of the Senate by the suggestion of somebody who wanted to destroy the efficiency of this body for useful practical purposes of legislation. The Constitution is very plain on this matter, and there need never to have been a rule on the subject:

Each House shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business—

What "business?" It does not make any difference when you use the word "business" what it is; whether it is to go forward or to go backward; whether it is to adjourn or take a recess; whether it is to specify a certain hour to-morrow to take a vote on a proposition or to pass a bill—

and a majority of each House shall constitute a quorum to do business—

But here comes the exception—

but a smaller number may adjourn from day to day—

Thirty-seven or thirty-eight Senators may adjourn from day to day—and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each House may provide.

There are only two things under this section of the Constitution that the Senate can do now after the roll-call that has been had and we have ascertained there is not a quorum here. One is to adjourn; the other is to compel the attendance of absent Senators. The qualification is here:

And a majority of each shall constitute a quorum to do business—

Now the exception comes—

but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members.

Mr. HILL. That is the same question. If in determining how you will compel attendance of absent Senators a question of order is raised, cannot the same number determine that question of order that can determine the main question upon which the point of order arises?

Mr. GARLAND. Most indisputably, but there is nothing short of compelling their attendance—

The PRESIDING OFFICER. The Chair is ready to rule on the question.

Mr. GARLAND. If the Chair is ready to decide, I will give way.

Mr. PADDOCK. I do not mean any discourtesy to any Senator, but it seems to me this debate has gone far enough, being, as it is, out of order. I should like for one to hear from the Chair.

The PRESIDING OFFICER. The Senator from Arkansas states precisely that there are but two questions that can be put when it is disclosed that there is no quorum present, first, a motion to adjourn, and next a motion to request or compel attendance. The method of compelling attendance is to be determined either by the Chair or by the Senate. The Senator from North Carolina has raised a point of order on the method. The occupant of the chair has submitted the question of order to the Senate, and on that submission it was disclosed that there was not a quorum. That being incident to the right of the Senate to compel attendance here in some manner, the Chair will decide that the point of order raised by the Senator from Georgia is well taken, and the Senate has decided that the point of order raised by the Senator from North Carolina is well taken, and that the first duty of the Senate will be to request the attendance of Senators, and then, failing in that, the way will be open for a motion to compel Senators to attend.

Mr. GARLAND. The question was decided before I had got to the point.

Mr. PADDOCK. Let us vote to request the attendance of absentees.

The PRESIDING OFFICER. The Chair stated to the Senator from Arkansas that he was ready to decide the question, and the Senator from Arkansas said if that was the case he would cease, and the Chair took occasion to decide. It is now decided. If the Senator desires to speak upon that point it is foreclosed.

Mr. GARLAND. I do not desire to speak upon that, but I desire to speak upon something the Chair has not yet touched.

Mr. PADDOCK. Mr. President, is debate in order at this stage of the proceedings?

The PRESIDING OFFICER. Debate is not in order.

Mr. GARLAND. Nothing is in order but by consent.

Mr. PADDOCK. I must object, and I do that with the utmost courtesy to my friend from Arkansas. I would not do him any discourtesy for any thing in the world.

Mr. VOORHEES. The Chair inadvertently made this ruling before the Senator from Arkansas concluded his remarks.

Mr. PADDOCK. I object to debate.

Mr. VOORHEES. That is a fact.

The PRESIDING OFFICER. The Senator from Indiana has not raised a question of fact. The Chair was disposed to leave it to the Senator from Arkansas, and the Chair suggested to the Senator from Arkansas that the Chair was ready to rule. The Senator from Arkansas said if that was the case he would cease discussing the question.

Mr. GARLAND. Yes; but I supposed the Chair was going to hear the proposition I was about to state.

Mr. PADDOCK. I ask for the enforcement of the rule to request the attendance of absent Senators.

The PRESIDING OFFICER. The Senator from Arkansas asks permission to discuss some question, the Chair does not know what. Is there objection?

Mr. PADDOCK. I object.

The PRESIDING OFFICER. Objection is made.

Mr. GORDON. Will not the Senator from Arkansas allow the instructions to be given to the Sergeant-at-Arms first, and then let us go on with the discussion?

Mr. GARLAND. The instructions are what we are talking about. Mr. GORDON. The Senate has decided what the instructions shall be.

The PRESIDING OFFICER. Is there objection to the Senator from Arkansas stating what he desires? The Chair hears no objection.

Mr. PADDOCK. I am compelled to object.

The PRESIDING OFFICER. The Chair heard no objection in time.

Mr. GARLAND. The only question decided was the question of order raised by the Senator from North Carolina—

Mr. GORDON. I beg my friend's pardon; the question has been finally decided by the Chair that the method of compelling shall be in accordance with the suggestion made by the Senator from North Carolina. That question has been decided by the Chair.

The PRESIDING OFFICER. The Senate has decided that under the rule the first order must be a request for the attendance of absent Senators.

Mr. PADDOCK. I ask for the enforcement of the rule to request the attendance of absent Senators.

The PRESIDING OFFICER. A point of order has been raised. There is no motion before the Senate.

Mr. GARLAND. I rise to a question of order.

The PRESIDING OFFICER. The Senator from Arkansas will state his point of order.

Mr. GARLAND. That under the section of the Constitution I have read less than a quorum cannot do anything but adjourn or compel the attendance of absent Senators. Therefore, less than a quorum could not settle this question of order to bind the Senate when it is here in quorum to do general business.

The PRESIDING OFFICER. The Chair has already overruled the point of order, and will not repeat his decision. The Senate has decided that the first order shall be a request for the attendance of absent Senators. That motion has not been made; there is no question before the Senate.

Mr. PLUMB. I move that the Senate do now adjourn. We are not likely to accomplish anything by staying here.

Mr. GORDON. Before that is done cannot we have an understanding that we shall vote at twelve o'clock to-morrow.

Mr. PLUMB. I do not yield for anything. I insist on my motion.

The PRESIDING OFFICER. (at twelve o'clock midnight.) The Senator from Kansas moves that the Senate do now adjourn.

Mr. ROLLINS. Let us have the yeas and nays.

The yeas and nays were not ordered.

Mr. PLUMB. I call for a division.

The question being put, there were on a division—yeas 8, noes 20; no quorum voting.

Mr. HARRIS. I move that the Sergeant-at-Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. First there must be a call of the Senate, no quorum being developed on the last vote.

Mr. HARRIS. I ask for a call of the Senate.

The PRESIDING OFFICER. The Secretary will call the roll.

Mr. CAMERON, of Wisconsin. I wish to raise this point, whether or not it is necessary for the Chair to direct a call?

The PRESIDING OFFICER. The Chair has so ruled. The call will proceed.

The Secretary called the roll, and thirty-seven Senators answered to their names.

Mr. ROLLINS. It is very evident that we cannot get a quorum.

The PRESIDING OFFICER. It only lacks two.

Mr. ROLLINS. It has lacked that a good while. I move that the Senate do now adjourn.

The PRESIDING OFFICER. The Chair will first state the number present. Thirty-seven are present—two less than a quorum.

Mr. VOORHEES. I desire to notify the country that on a question involving the exclusion of pestilence from this country, as far as it is in our power to do so, the Senate refuses to exercise the power given to it by the words of the Constitution to compel the attendance of its members, who are elected by the people to come here and attend to their public duties instead of attending to their own private pleasure.

Mr. BOOTH. I move an adjournment.

The PRESIDING OFFICER. The Senator from California [Mr. BOOTH] moves that the Senate adjourn.

The motion was not agreed to.

Mr. HARRIS. I move that the Sergeant-at-Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on the motion of the Senator from Tennessee to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant-at-Arms will execute the order of the Senate.

Mr. INGALLS. I should like to have my name called.

The PRESIDING OFFICER. The Senator from Kansas [Mr. INGALLS] is present, and will be called.

Mr. ROLLINS, (at twelve o'clock and fifteen minutes a. m.) Would a motion now be in order to direct the Sergeant-at-Arms to compel the attendance of absent Senators?

The PRESIDING OFFICER. It would not. The Sergeant-at-Arms is executing the order of the Senate.

Mr. ROLLINS. Still, would not the motion be in order?

The PRESIDING OFFICER. Not at this time, until a report is made by the Sergeant-at-Arms.

Mr. ROLLINS. What length of time must necessarily elapse before such a motion would be in order?

The PRESIDING OFFICER. Precisely a sufficient time to execute the order.

Mr. ROLLINS. Suppose the Sergeant-at-Arms does not report until to-morrow at twelve o'clock, will not a motion be in order to compel the attendance of Senators until that hour arrives?

The PRESIDING OFFICER. The Chair will decide that point when that event shall occur.

Mr. ROLLINS. I move that the Senate adjourn.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Hampshire, that the Senate adjourn.

The motion was not agreed to.

Mr. ROLLINS. Would it be in order to call upon the Sergeant-at-Arms for a report?

The PRESIDING OFFICER. It would not now. He is executing the order of the Senate.

Mr. ROLLINS. Then I do not see any way in which a quorum of the Senate can be procured.

Mr. EUSTIS. I ask leave of absence from the Senate.

The PRESIDING OFFICER. The Chair cannot put that question. But two motions can be put; one is being executed, and the other the Chair will entertain, which is a motion to adjourn.

Mr. GORDON. Is it in order to ask unanimous consent that we vote to-morrow, and now adjourn, say, until twelve o'clock? ["No!" "No!"]

The PRESIDING OFFICER. No motion is in order but to adjourn or to suspend proceedings under the call.

Mr. MERRIMON, (at twelve o'clock and thirty minutes a. m.) I move that the Senate do now adjourn.

Mr. ALLISON. On that I ask for the yeas and nays.

Mr. KIRKWOOD. Is that motion in order?

Mr. RANSOM. Yes; a motion to adjourn is always in order.

Mr. KIRKWOOD. I do not know; there is something said in the rules to the effect that one motion to adjourn cannot follow another without some business intervening.

Mr. HARRIS. There is such a rule. Has there been any business transacted in the Senate since the last motion to adjourn was voted down?

Mr. ALLISON. The Senator from Tennessee [Mr. HARRIS] has made some remarks.

The PRESIDING OFFICER. The Chair rules that the act of a Senator addressing the Chair forms part of the business of the Senate. The Senator from North Carolina [Mr. MERRIMON] moves that the Senate adjourn, on which the yeas and nays have been demanded.

The yeas and nays were ordered; and being taken, resulted—yeas 5, nays 27; as follows:

YEAS—5.			
Booth,	Kernan,	Ransom,	Saunders.
Cameron of Wis.,			

NAYS—27.

Allison,	Davis of Illinois,	Hill,	Paddock,
Bailey,	Eaton,	Jones of Florida,	Plumb,
Beck,	Edmunds,	Kirkwood,	Rollins,
Cameron of Pa.,	Ferry,	Lamar,	Teller,
Cockrell,	Garland,	Matthews,	Thurman,
Coke,	Gordon,	Merrimon,	Voorhees.
Conover,	Harris,	Morgan,	

ABSENT—44.

Anthony,	Burnside,	Davis of West Va.,	Grover,
Barnum,	Butler,	Dawes,	Hamlin,
Bayard,	Chaffee,	Dennis,	Hereford,
Blaine,	Chandler,	Dorsey,	Hoar,
Bruce,	Conkling,	Eustis,	Howe,

Ingalls,
Johnston,
Jones of Nevada,
Kellogg,
McCreery,
McDonald,

McMillan,
McPherson,
Maxey,
Mitchell,
Morrill,
Oglesby,

Patterson,
Randolph,
Sargent,
Saulsbury,
Sharon,
Shields,

Spencer,
Wadleigh,
Wallace,
Whyte,
Windom,
Withers.

So the Senate refused to adjourn.

Mr. EDMUNDS. No quorum has voted?

The PRESIDING OFFICER. No quorum has voted.

Mr. EDMUNDS. Did not the Chair decide that when on a motion to adjourn the want of a quorum is disclosed the roll must be called over again? Did not the Chair so decide a little while ago, and was it not done? If that was the law then, I want the law executed now.

Mr. ALLISON. I move that the roll be called.

Mr. EDMUNDS. You do not need to move that it be called. I understood the Chair to decide that it should be called on exactly this state of things.

The PRESIDING OFFICER. The Secretary will proceed to call the roll.

Mr. EDMUNDS. Does the Chair decide that that must be done?

The PRESIDING OFFICER. In this instance it will be done.

Mr. EDMUNDS. I make no instance. I only wish to hold the Chair to what the Chair has decided.

Mr. ALLISON. I move that the roll be called.

Mr. EDMUNDS. I make the point of order that the roll-call is not in order while the Sergeant-at-Arms is executing the order of the Senate.

The PRESIDING OFFICER. It is not in order except when the vote discloses the want of a quorum and the Senate refuses to adjourn.

Mr. EDMUNDS. Which motion to adjourn itself was not in order.

Mr. BOOTH. I move that the Senate adjourn until to-morrow at twelve o'clock.

The PRESIDING OFFICER. That motion is not in order.

Mr. BOOTH. I appeal from the decision of the Chair. Is the appeal in order?

Mr. INGALLS. Does the Chair hold that pending an execution of its order a motion to adjourn is not in order?

The PRESIDING OFFICER. The Chair has decided that it is in order. The Senate has just decided, however, that it would not adjourn.

Mr. INGALLS. I understood the Senator from California to move that the Senate adjourn until to-morrow at twelve.

Mr. VOORHEES. I understand that two motions are in order when the want of a quorum is disclosed: one is a call of the Senate, and the other is a motion to adjourn. We voted upon a motion to adjourn, there has been no intervening business since that time, and consequently another motion to adjourn cannot be in order.

Mr. ALLISON. I rise to a point of order.

The PRESIDING OFFICER. The Senator from Iowa will state his point of order.

Mr. ALLISON. My point of order is that the Senator from Indiana having spoken business has intervened, and a motion to adjourn is in order.

The PRESIDING OFFICER. The Senator from Iowa moves that the Senate adjourn.

Mr. EDMUNDS. I make the point of order upon that, that the motion to adjourn is not in order pending the execution of the order of the Senate, unless it shall be preceded by a motion to dispense with further proceedings under the call.

Mr. BOOTH. I should like to know what has become of my appeal.

The PRESIDING OFFICER. The Chair has not entertained the motion of the Senator from California.

Mr. INGALLS. The Chair is plainly wrong, in my judgment, the language of the rule being that—

Pending its execution, and until a quorum shall be present, no motion, except a motion to adjourn, nor debate, shall be in order.

That is what is called a negative pregnant in logic; and the motion to adjourn would plainly be in order pending the execution of the order of the Senate requesting the attendance of absentees.

The PRESIDING OFFICER. So the Chair would rule, but the Senator from California has moved that the Senate adjourn until a certain hour. The Senator from Kansas, the Chair understood, asked if it would not be in order to move to adjourn until twelve, that being a different hour from that fixed in the standing order of the Senate, and the Chair ruled that it would not be in order.

Mr. ALLISON. I believe on my motion that the Senate now adjourn the Senator from Vermont raised a question of order that such a motion is not in order pending a call.

Mr. EDMUNDS. Pending the execution of the order to bring in the absentees.

The PRESIDING OFFICER. The Chair would rule that a motion to adjourn is always in order.

Mr. EDMUNDS. During a roll-call?

The PRESIDING OFFICER. The roll is not being called. The Senator from Iowa moves that the Senate now adjourn.

The motion was not agreed to.

Mr. BOOTH. I wish to ask a parliamentary question.

The PRESIDING OFFICER. The Chair will entertain it.

Mr. BOOTH. Is it in order for the Chair to adjourn the Senate pending the call of the yeas and nays?

The PRESIDING OFFICER. It is for the Senate to adjourn the Senate.

Mr. BOOTH. I asked the question in view of a point that was raised a few days ago, and I thought I might get a decision on that.

Mr. VOORHEES. May I ask under what order we are now operating?

The PRESIDING OFFICER. We are awaiting the execution of the order of the Senate.

Mr. VOORHEES. What is the order?

The PRESIDING OFFICER. That the Sergeant-at-Arms request the attendance of absentees.

Mr. VOORHEES. It is now a quarter to one o'clock; I move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. That motion is not in order.

Mr. VOORHEES. Why not?

The PRESIDING OFFICER. The rule excludes it.

Mr. VOORHEES. Pardon me, I do not know why.

The PRESIDING OFFICER. There is not a quorum present, and but two motions can be entertained.

Mr. VOORHEES. A good many things can be done when there is no quorum present.

The PRESIDING OFFICER. But two motions can be entertained at one time.

Mr. VOORHEES. I then rise, Mr. President, to a parliamentary inquiry, and that is, when in the course of human events it will be in order to compel Senators to come here and attend to the business which their constituents behind them expect them to transact? We are now requesting them politely. They may get up from their beds; most likely they will not. Most likely they will tell those who request them to go their way. If the Chair will inform me about what time it will be in order to move to bring the representatives of the people here so that the Senate will again be a law-making body I would be obliged to the Chair.

I served ten years in the House of Representatives, as the Senator who now occupies the Chair [Mr. FERRY] did, and during that time I was called to account before the people every two years as you were. If we were absent from attendance on our duties we had to answer for it. While I am a member of this body I hold myself no further removed from accountability to the people than I was then. I hold myself responsible directly to the people as I did while I was a member of the House. When a member of the House, as every Senator knows, we held ourselves liable to be called, and compelled, in the language of the Constitution, to attend to our duties. I intend to hold myself responsible in that way here, and I intend to hold others as far as I can to the same responsibility. The country will also hold them responsible. The people will not understand the distinction which arises when a representative walks from the south end of the Capitol to the north end. While at the south end he can be compelled to attend to his duties if he is so recreant as to disregard them, yet when he gets here he seems to be released from all such compulsion.

I entertain no such distinction, and I never intend to. I give notice now that if I live during the six years' term which my generous and trusting constituency have given me I shall not hesitate to exercise the power conferred by the Constitution to secure an attendance.

Mr. President, as you know, and as I do, there are at this time from day to day broken and crippled soldiers and weeping women around this Chamber whose claims demand our immediate attention. There are over four hundred bills on our Calendar calling for action, while Senators are asleep in their beds or attending parties at the houses of foreign ministers.

I know nothing that I have been sent here for except to attend to public duties, and other Senators are sent here for the same purpose. Sir, I have been shocked and mortified in observing Senators, and especially from the South, taking the ground that we cannot compel a quorum here to-night on this bill, whose purpose is to protect their wives and their children, their seaboard, their cities, their homes and their hearthstones, from the ravages of pestilence.

I repeat, Mr. President, that I would like to know about what time of the night, whether something between this hour and daylight, we can enforce the Constitution of the United States in this body. That instrument says we may compel Senators to do their duty; it says so in words, it says so in that express and forcible word "compel." That word, however, is ignored here, and we are humbly requesting men to do what is devolved upon them by the laws of their country. Oh, that I could find out by some divining-rod, by some power of magic, by some touch of inquisition, when we shall be able to do what the Constitution says it is our duty to do; when we can do that which in itself is so right to do; when we can break away from the shams which have woven themselves around the Senate of the United States in violation of law, in violation of the Constitution, in violation of public duty!

Mr. President, I do not claim to be more virtuous than other people. Still I am here to do what I can to promote the public welfare, whether in passing a bill to exclude the yellow fever or any other bill of merit.

This is not a bill, it is true, to abolish the yellow fever, as the Senator from Vermont suggests. That we cannot do. The Senator from Vermont indulged in a very uncalled-for and useless expression when with a sneer he stated that we were trying to abolish the yellow fever by law. No, no; God Almighty in His omnipotent and merciful de-

crees alone can abolish the plague and stay the pestilence. Mortals cannot do it; we are not trying to do it; but whenever and wherever I find a measure tending that way, looking in that direction, whose purpose is to lessen the calamities that the yellow fever or any other disease may bring, I will allow it to supersede everything else; I will allow it to stand in front, as I said early this evening, of everything else, of deficiency bills, of amendments even to the Constitution for keeping disloyal people from robbing the Treasury, of which I conceive there is no danger. I will allow it to supersede the bill which the senior Senator from Maine [Mr. HAMLIN] advocated, the bill to distribute the proceeds of the claims which we made upon England for the depredations committed by the Alabama and other Confederate war vessels; claims in the settlement of which we got more money than we now know what to do with; more money than we can find honest claimants for.

Sir, I believe the measure before us to be a good one. Nobody complains of it; there is no feature in it that shocks anybody; it contains nothing that violates the Constitution; it does not overthrow State rights. Since I have shown my friend from Ohio [Mr. THURMAN] that the tug-boat Porter went up to Gallipolis and spread yellow fever on every side, and that Ohio had no regulations, neither quarantine nor police, to prevent her voyage of death and destruction, I believe even he has no further objection to this bill on constitutional grounds. Yet at one o'clock to-night we are without a quorum to consider and pass it.

My sole purpose in speaking at all at this time is to call the attention of the country to the melancholy fact that the Senate of the United States is not disposed to attend to the most important business that can possibly come before it—a measure involving the issues of life and death.

Mr. BOOTH, (at twelve o'clock and fifty-five minutes a. m.) I move that the Senate adjourn.

The PRESIDING OFFICER. The question is on the motion of the Senator from California that the Senate adjourn.

Mr. BOOTH. I ask for the yeas and nays.

The yeas and nays were not ordered.

The Senate refused to adjourn; there being on a division—ayes 8, noes 13.

Mr. VOORHEES. Would it be in order to introduce some morning business? I have some very important Journal business to present.

The PRESIDING OFFICER. It would be in order if it did not interrupt the business of the Senate.

Mr. VOORHEES. Interrupt! What is there to interrupt this dead level of stupid monotony?

Mr. KELLOGG. I ask leave to make some reports from the Committee on Pensions.

The PRESIDING OFFICER. The Chair cannot entertain such business.

Mr. VOORHEES. I am going to ask leave to make a report from a standing committee of the Senate.

The PRESIDING OFFICER. There is no objection to the Senator's asking leave, but there is objection to the Senator making his report.

Mr. VOORHEES. Does the Chair indicate that it is not in order?

The PRESIDING OFFICER. The rule makes it out of order.

Mr. VOORHEES. I ask for the reading of the rule.

The PRESIDING OFFICER. The Secretary will read the rule.

The Secretary read as follows:

3. No Senator shall absent himself from the service of the Senate without leave of the Senate first obtained. Whenever it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant-at-Arms to request, and, when necessary, to compel the attendance of the absent Senators, which order shall be determined without debate; and, pending its execution, and until a quorum shall be present, no motion, except a motion to adjourn, nor debate, shall be in order.

Mr. VOORHEES. I supposed I could by unanimous consent make a report from a committee of the Senate.

The PRESIDING OFFICER. The Chair cannot take the unanimous consent unless a majority is present.

Mr. VOORHEES. Allow me to suggest that in this interval of time we might receive anything that anybody could report for the public and their interests in this country, especially by unanimous consent. Unanimous consent is a law to every body.

The PRESIDING OFFICER. The Chair reminds the Senator that the business of the Senate requires the unanimous consent of a majority, and a minority cannot give unanimous consent in the face of the rule. To undo the rule would require the unanimous consent of a majority of the Senate.

Mr. BOOTH. Is it in order to ask for a report from the Sergeant-at-Arms to know what the probability is of getting a quorum?

The PRESIDING OFFICER. The Sergeant-at-Arms has not yet reported.

Mr. PLUMB, (at one o'clock and four minutes a. m.) I move that the Senate now adjourn.

The Senate refused to adjourn; there were on a division—ayes 13, noes 16.

Mr. MORGAN. I move that the Senate take a recess for twenty minutes.

The PRESIDING OFFICER. The motion is not in order.

Mr. BURNSIDE. I move that we adjourn.

Mr. PADDOCK. Mr. President, it strikes me that the Senator from Rhode Island—

Mr. EDMUNDS. No debate.

The PRESIDING OFFICER. Debate is not in order.

Mr. VOORHEES. I should like to know when the Senator from Rhode Island came in?

Mr. EDMUNDS. I object to debate.

The PRESIDING OFFICER. The question is on the motion of the Senator from Rhode Island.

Mr. VOORHEES. I should like to ask when the Senator from Rhode Island came in. I am surprised at seeing him and should like to know.

The Senate refused to adjourn, there being on a division—ayes 17, noes 20.

Mr. THURMAN. I ask unanimous consent of the Senate to speak for five minutes.

The PRESIDING OFFICER. Is there objection?

Mr. EDMUNDS. How can the Chair take an objection from a minority of the Senate?

Mr. ALLISON. I desire to know the topic on which the Senator from Ohio wishes to speak?

Mr. PADDOCK. I think that question is pertinent. The Senator may propose to offer an apology for absent Senators.

Mr. EDMUNDS. No debate, Mr. President.

The PRESIDING OFFICER. Objection is made, and no debate is in order.

Mr. INGALLS. I believe there is a quorum present. I move that further proceedings under the call be dispensed with.

Mr. HARRIS. Has it been developed that there is a quorum present?

Mr. EDMUNDS. No debate.

The PRESIDING OFFICER. Debate is not in order. The motion of the Senator from Kansas [Mr. INGALLS] is in order. The question is on agreeing to the suspension of the order requesting the presence of Senators.

Mr. INGALLS. When are we to ascertain whether a quorum is present or not? We have no report from the Sergeant-at-Arms.

The PRESIDING OFFICER. If the Senator will call for the yeas and nays the roll-call will disclose the presence or lack of a quorum.

Mr. INGALLS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BECK. Mr. President—

The PRESIDING OFFICER. Debate is not in order.

Mr. BECK. I desire to know what the question is.

The PRESIDING OFFICER. The Senator from Kansas moves that all further proceeding under the call be dispensed with.

Mr. BECK. I do not desire to debate it, but I hope we shall require at least forty Senators to be present before we go further.

The PRESIDING OFFICER. Debate is not in order. The Secretary will proceed with the call.

The question being taken by yeas and nays, resulted—yeas 5, nays 26, as follows:

YEAS—5.			
Cameron of Wis.,	Matthews,	Oglesby,	Teller.
Eastis,			
NAYS—26.			
Bailey,	Eaton,	Kellogg,	Rollins,
Beck,	Ferry,	Kernan,	Saunders,
Burnside,	Garland,	Kirkwood,	Thurman,
Cockrell,	Gordon,	Lamar,	Voorhees,
Coke,	Grover,	Merrimon,	Wadleigh.
Conover,	Harris,	Morgan,	
Davis of Illinois,	Jones of Florida,	Paddock,	
ABSENT—45.			
Allison,	Davis of W. Va.,	Jones of Nevada,	Sargent,
Anthony,	Dawes,	McCreery,	Saulsbury,
Barnum,	Dennis,	McDonald,	Sharon,
Bayard,	Dorsey,	McMillan,	Shields,
Blaine,	Edmunds,	McPherson,	Spencer,
Booth,	Hamlin,	Maxey,	Wallace,
Bruce,	Hereford,	Mitchell,	Whyte,
Butler,	Hill,	Morrill,	Windom,
Cameron of Pa.,	Hoar,	Patterson,	Withers.
Chaffee,	Howe,	Plumb,	
Chandler,	Ingalls,	Randolph,	
Conkling,	Johnston,	Ransom,	

So the motion to suspend the call was not agreed to.

Mr. KELLOGG. Is it proper now to require the Sergeant-at-Arms to make report as to the manner in which he and his deputies have discharged the order of the Senate?

The PRESIDING OFFICER. The Chair understands the Sergeant-at-Arms is preparing his report and will make it in a moment or two. [A pause.] The Chair is informed that the report is now ready. The Secretary will read the report of the Sergeant-at-Arms.

The Secretary read as follows:

To the President of the Senate:

In obedience to the order of the Senate, I have notified Senators CONKLING, HOWE, CHAFFEE, MCPHERSON, BURNSIDE, SHARON, WALLACE, DAVIS of West Virginia, BARNUM, BRUCE, ANTHONY, BAYARD, BLAINE, and JONES of Nevada of the request of their attendance. Senators CHAFFEE, MCPHERSON, SHARON, BRUCE, and WALLACE are detained at their lodgings by sickness. Senators ANTHONY, BLAINE, and DAVIS of West Virginia are paired. Senators BURNSIDE and HOWE have reported in person. Messengers sent for other Senators not yet returned.

JOHN R. FRENCH,
Sergeant-at-Arms.

Mr. HARRIS. Mr. President, is it now in order, under the rules of

the Senate, to move that the Sergeant-at-Arms be directed to compel the attendance of absent members of this body?

The PRESIDING OFFICER. It is.

Mr. HARRIS. Then I make that motion.

The PRESIDING OFFICER. The gentleman from Tennessee moves that the Sergeant-at-Arms be directed to compel the attendance of absent Senators.

Mr. TELLER. That will not apply, of course, to those who are sick. My colleague [Mr. CHAFFEE] is confined to his room by illness.

Mr. THURMAN. It will certainly not apply to him.

Mr. HARRIS. Of course not.

Mr. KELLOGG. How is the Senator from Tennessee to determine whether Senators are ill or not when we know that within an hour or two some who were reported sick have returned in apparently good health?

Mr. HARRIS. I was going to ask that Senators who are detained by indisposition be excepted from the rule.

The PRESIDING OFFICER. The Chair cannot determine that. All absent Senators are included in the motion, and will be summoned to appear unless specially excepted.

Mr. EATON. It is not necessary to except them. Their explanation hereafter will answer.

The PRESIDING OFFICER. The gentleman from Tennessee moves that the Sergeant-at-Arms be directed to compel the attendance of absent Senators.

Mr. INGALLS. Before that motion is put, justice requires that I should state that the Senator from Massachusetts, [Mr. HOAR,] in my hearing, said, when he left the Chamber, that he was compelled to leave on account of illness in his family. I therefore think he should be excepted from the operation of this order.

Mr. THURMAN. I have not the least doubt in the world that the Senator from Tennessee can except those who, by the report of the Sergeant-at-Arms, are prevented from attending the Senate by sickness. It would be extraordinary that the Sergeant-at-Arms should be compelled to take them into custody and bring them here. Take, for instance, the Senator from Colorado, [Mr. CHAFFEE,] it would be simply monstrous that he should be dragged out of bed and brought here.

Mr. VOORHEES. That is not a question fit for discussion. As a matter of course those Senators who are reported by the officer of this body as detained by sickness ought to be excepted from this order.

Mr. THURMAN. I will move to insert as an amendment, if the Senator from Tennessee does not himself make that motion—

Except those who are detained at home by sickness, according to the report of the Sergeant-at-Arms.

I hope the Senator from Tennessee will modify his motion in that way.

Mr. HARRIS. I desire, if it is in order, to except from my motion Senators who are confined to their rooms by indisposition. I chance to know, at least it has been reported around on this floor for several days, that the Senator from Colorado, [Mr. CHAFFEE,] and for two or three days the Senator from New Jersey, [Mr. RANDOLPH,] have been ill, and they have been habitually reported as absent because of indisposition. I certainly do not desire to include those Senators or any others who are confined to their rooms by indisposition; but every Senator who is not so confined I do desire to include in my motion.

Mr. PADDOCK. I hope the Senator from Tennessee may be permitted to modify his motion in that respect.

The PRESIDING OFFICER. The Chair would rule that the motion of the Senator from Ohio [Mr. THURMAN] is in order. It is for the Senate to determine in what way they will execute the order.

Mr. KERNAN. I know of my own knowledge that the Senator from New Jersey [Mr. RANDOLPH] was yesterday confined to his bed, for I then called to see him. I hope he will be excepted.

Mr. HARRIS. I hope so.

The PRESIDING OFFICER. The Chair understood the Senator from Tennessee to leave to the Chair to determine in enforcing the call who are well and who are sick. It is for the Senate to determine that.

Mr. HARRIS. I am willing to accept the suggestion of the Senator from Ohio to exclude from the operation of the rule those Senators who are confined to their rooms by indisposition and who are so reported by the officer of the Senate.

The PRESIDING OFFICER. The Senator from Tennessee accepts the modification suggested by the Senator from Ohio.

Mr. BAILEY. I hope my colleague will also include in his motion those Senators who have been reported sick by other Senators.

Mr. HARRIS. Certainly.

Mr. THURMAN. The Senator from New Jersey [Mr. RANDOLPH] and the other Senators who have been reported sick have not been notified.

Mr. HARRIS. Any Senator who has been reported by another Senator to be confined to his room by indisposition I would except from the order.

Mr. THURMAN. The Senator from Massachusetts, [Mr. HOAR,] who was reported as being detained by illness in his family, was not notified; so that it is only necessary to except those who have been

reported by other Senators or by the Sergeant-at-Arms as being detained at home by sickness.

Mr. BOOTH. I desire to say, in justice to my colleague, [Mr. SARGENT,] that it is known to all Senators that he has been suffering from protracted illness. I hope, therefore, he will be excepted.

Mr. INGALLS. Are only those to be notified whose names are mentioned in the return of the Sergeant-at-Arms?

The PRESIDING OFFICER. All are to be notified except those who are stated in the report as being indisposed.

Mr. BOOTH. I ask that that exception be made in favor of my colleague.

Mr. THURMAN. Of course that will be done; but it is not necessary, as he has not been notified to attend.

The PRESIDING OFFICER. The order will require a notification to all absentees, unless those specially excepted.

Mr. BAILEY. I move also that the Senator from New Jersey, [Mr. RANDOLPH,] who is confined to his room by illness, be included in the exception.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator from New Jersey will be excepted from the operation of the order.

Mr. BECK. I know the fact to be that the health of the Senator from California [Mr. SARGENT] is such that he is hardly able to serve on his committee in the day-time, and he ought not to be required to come out at night.

The PRESIDING OFFICER. Is there objection to excepting the Senator from California? The Chair hears none. The question is on the motion of the Senator from Tennessee with these modifications.

The motion was agreed to.

Mr. KELLOGG. I ask that the Secretary read the names of those excepted on account of sickness.

The PRESIDING OFFICER. The Secretary will report the names.

The SECRETARY. The following Senators have been excepted:

Messrs. Chaffee, McPherson, Sharon, Bruce, Wallace, Randolph, Sargent, and Hoar.

Mr. HARRIS. I do not remember that the Senator from New Jersey [Mr. MCPHERSON] was mentioned by any Senator or by any report of the Sergeant-at-Arms as being indisposed.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. MCPHERSON] was included in the report of the Sergeant-at-Arms as being absent on account of sickness.

Mr. EDMUNDS. The Senator from Wisconsin [Mr. HOWE] is here present and the Senator from Rhode Island [Mr. BURNSIDE] is here.

The PRESIDING OFFICER. They have been recognized.

Mr. EDMUNDS. I thought their names were read.

The PRESIDING OFFICER. Their names were read as having been absent, but they have since appeared. There has been an exception made of those sick. The Sergeant-at-Arms will execute the order of the Senate and compel the attendance of absentees.

Mr. TELLER. (at one o'clock and twenty-five minutes a. m. Tuesday, February 25.) I move that the Senate adjourn; and on that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 7, nays 27; as follows:

YEAS—7.		Teller.	
Booth,	Howe,	Plumb,	
Cameron of Wis.,	Oglesby,	Saunders,	

NAYS—27.			
Bailey,	Eaton,	Harris,	Morgan,
Beck,	Edmunds,	Kellogg,	Paddock,
Cameron of Pa.,	Eustis,	Kernan,	Rollins,
Cockrell,	Ferry,	Kirkwood,	Thurman,
Coke,	Garland,	Lamar,	Voorhees,
Conover,	Gordon,	Matthews,	Wadleigh,
Davis of Illinois,	Grover,	Merrimon,	

ABSENT—42.			
Allison,	Davis of W. Va.,	Jones of Nevada,	Sargent,
Anthony,	Dawes,	McCreery,	Saulsbury,
Barnum,	Dennis,	McDonald,	Sharon,
Bayard,	Dorsey,	McMillan,	Shields,
Blaine,	Hamlin,	McPherson,	Spencer,
Burnside,	Hereford,	Maxey,	Wallace,
Bruce,	Hill,	Mitchell,	Whyte,
Chaffee,	Hoar,	Morrill,	Windom,
Chandler,	Ingalls,	Patterson,	Withers,
Conkling,	Johnston,	Randolph,	
	Jones of Florida,	Ransom,	

So the Senate refused to adjourn.

Mr. EATON. Mr. President, is it in order to move that when we adjourn we adjourn to a particular hour?

The PRESIDING OFFICER. It is not.

Mr. EDMUNDS. It is in order to move to adjourn, however.

Mr. EATON. Yes; I know that.

Mr. CAMERON, of Wisconsin, (at one o'clock and thirty-three minutes a. m.) I think there is a quorum present. In order to develop the fact whether there be a quorum present, I move that further proceedings under the call be dispensed with.

Mr. HARRIS. Is that question debatable?

The PRESIDING OFFICER. It is not. The question is on the motion of the Senator from Wisconsin.

Mr. CAMERON, of Wisconsin. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 5, nays 28; as follows:

YEAS—5.		Teller.	
Cameron of Wis.,	Oglesby,	Plumb,	
Howe,			

NAYS—28.			
Bailey,	Edmunds,	Hill,	Paddock,
Beck,	Eustis,	Kellogg,	Ransom,
Burnside,	Ferry,	Kernan,	Rollins,
Cockrell,	Garland,	Lamar,	Spencer,
Coke,	Gordon,	Matthews,	Thurman,
Davis of Illinois,	Grover,	Merrimon,	Voorhees,
Eaton,	Harris,	Morgan,	Wadleigh,

ABSENT—43.			
Allison,	Conkling,	Jones of Florida,	Randolph,
Anthony,	Conover,	Jones of Nevada,	Sargent,
Barnum,	Davis of W. Va.,	Kirkwood,	Saulsbury,
Bayard,	Dawes,	McCreery,	Saunders,
Blaine,	Dennis,	McDonald,	Sharon,
Booth,	Dorsey,	McMillan,	Shields,
Bruce,	Hamlin,	McPherson,	Wallace,
Butler,	Hereford,	Maxey,	Whyte,
Cameron of Pa.,	Hoar,	Mitchell,	Windom,
Chaffee,	Ingalls,	Morrill,	Withers,
Chandler,	Johnston,	Patterson,	

So the motion was not agreed to.

Mr. TELLER. (at one o'clock and thirty-nine minutes a. m.) I move that the Senate do now adjourn, and on that motion I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 7, nays 29; as follows:

YEAS—7.		Teller.	
Cameron of Wis.,	Hill,	Ransom,	
Eustis,	Oglesby,	Rollins,	

NAYS—29.			
Allison,	Conover,	Jones of Nevada,	Paddock,
Bailey,	Davis of Illinois,	Kellogg,	Plumb,
Beck,	Eaton,	Kernan,	Spencer,
Booth,	Edmunds,	Kirkwood,	Thurman,
Burnside,	Ferry,	Lamar,	Voorhees,
Cameron of Pa.,	Garland,	McMillan,	
Cockrell,	Gordon,	Merrimon,	
Coke,	Harris,	Morgan,	

ABSENT—40.			
Anthony,	Dawes,	Jones of Florida,	Sargent,
Barnum,	Dennis,	McCreery,	Saulsbury,
Bayard,	Dorsey,	McDonald,	Saunders,
Blaine,	Grover,	McPherson,	Sharon,
Bruce,	Hamlin,	Matthews,	Shields,
Butler,	Hereford,	Maxey,	Wadleigh,
Chaffee,	Hoar,	Mitchell,	Wallace,
Chandler,	Howe,	Morrill,	Whyte,
Conkling,	Ingalls,	Patterson,	Windom,
Davis of W. Va.,	Johnston,	Randolph,	Withers,

So the Senate refused to adjourn.

Mr. PADDOCK. On behalf of the clerks and the reporters of the Senate I desire to make this plea: it is self-evident, it is apparent to every one, that the sense of the Senate is that we shall not adjourn, therefore I beseech Senators not to make these dilatory motions, which have no result other than to devolve labor upon the officers of the Senate.

Mr. ROLLINS. Mr. President, there is not any question but what there is a quorum in and about the Hall; but if Senators will not respond to their names that fact cannot possibly appear.

Mr. KIRKWOOD. I do hope that nothing will be done that will prevent the execution of the order of the Senate. We have spent several hours here now to see whether or not the Senate can procure the attendance of its members. If we do anything that prevents the execution of that order we have lost our night's work. If we stand by that order and have it executed, it may be the result will be that hereafter we can have the attendance of members here to do the business of the country. I wish to have that question tried fairly, and I wish to say frankly that if it cannot be done, I shall feel at liberty hereafter to attend or not attend just exactly as suits my pleasure.

Mr. VOORHEES. May I ask the Senator from Iowa whether he voted to politely, kindly, and gently request Senators to come here and keep us company while we are trying to do business for our constituents; or whether he voted to compel them to attend, in the language of the Constitution? The answer to that will determine my vote very much on his motion.

Mr. KIRKWOOD. I have voted from the first to compel their attendance.

Mr. VOORHEES. That is very good, and I am glad the Senator from Iowa has done so. I voted the same way, and I am ready to keep on voting so until sunrise. I presume that the test of endurance now is between those who are at home and those who are attending to their duties here. I have heard a good deal about courtesy to-night, more than I care to hear, in behalf of absent Senators. Will not some Senator, who has been pleading the cause of absent Senators, be kind enough to rise and give us something on the courtesy due to those present; those who are here trying to do their duty? I would be delighted to hear some Senator explain what measure of courtesy is due from those who are at home to those who are here trying in a vain and irregular way to pass the pending bill. Will not some professor of courtesy give us a discourse upon this question? Some of us have staid here until two o'clock in the morning, and I

have heard nothing as yet except what is due to those who are not here. On behalf of them there has been all the time the most muffled, courteous, deferential, senatorial tone of courtesy. How glad I would be if some Senator would rise and say a single word in behalf of the poor tired souls who are here trying to vote upon this bill. I suppose no one will do so however. All the courtesy is due to the runaways.

Mr. BOOTH, (two o'clock and five minutes a. m.) There is so much excitement now pervading this Hall that I think it ought to be quiet. We ought to have time for reflection. Therefore I move that the Senate do now adjourn.

The PRESIDING OFFICER. The Senator from California moves that the Senate do now adjourn.

Mr. TELLER called for the yeas and nays.

The yeas and nays were not ordered.

The motion to adjourn was not agreed to.

Mr. EUSTIS, (at two o'clock and twenty minutes a. m.) I move a call of the Senate.

The PRESIDING OFFICER. That is not in order. The Sergeant-at-Arms is executing an order of the Senate.

Mr. KELLOGG. The Senate is now proceeding under a call.

Mr. BOOTH, (at two o'clock and twenty-two minutes a. m.) I am afraid we are forgetful of the usual courtesy to those who are expected to work here to-morrow. I hope we shall not waste and fritter away all the night without doing something. Therefore I move that further proceedings under the call be discharged.

The PRESIDING OFFICER. The Senator from California moves that further proceedings under the call be dispensed with. The question is on this motion.

The motion was not agreed to.

Mr. TELLER, (at two o'clock and twenty-three minutes a. m.) I move that the Senate do now adjourn.

The motion was not agreed to.

Mr. VOORHEES, (at two o'clock and twenty-seven minutes a. m.) May I respectfully inquire whether at half past two o'clock in the morning of the day after the one we met, the point has arrived when we may under the rules compel the attendance of absent Senators?

The PRESIDING OFFICER. The Sergeant-at-Arms is executing an order.

Mr. VOORHEES. How long has he been running?

The PRESIDING OFFICER. About half an hour.

Mr. VOORHEES. I did not know that such a high outrage had been committed on a Senator.

Several SENATORS. An hour ago.

Mr. VOORHEES. Is it possible? It is a very gross outrage, I presume, on those who are staying at home, those who decline to attend here. The business is interrupted by Senators who have made upon the floor here appeals in behalf of those who are away. I should be glad to find when the point of courtesy had expired. It seems that not only those who have kept themselves away are not here, but their advocates on this floor have also vanished, for we now learn that the Sergeant-at-Arms is trying to compel Senators to come here.

Mr. BOOTH, (at two o'clock and thirty-three minutes a. m.) Is it in order now to ask whether the Sergeant-at-Arms has executed the last order?

The PRESIDING OFFICER. It is. The Sergeant-at-Arms reports progress.

Mr. VOORHEES, (at two o'clock and forty-three minutes a. m.) Can we have what the Senator from California asked for just now?

Mr. MERRIMON, (at two o'clock and forty-six minutes a. m.) I suggest that the Chair direct a call of the roll.

The PRESIDING OFFICER. The Chair has no power to direct a call of the roll.

Mr. MERRIMON. I submit to the Chair that the Chair must determine when there is a quorum, and it is competent for the Chair to exercise the proper means to ascertain that fact.

Mr. HARRIS. Has the Chair had any report from the Sergeant-at-Arms?

The PRESIDING OFFICER. The Sergeant-at-Arms is completing his report. The Senator from North Carolina can arrive at what he wishes by moving to suspend the call or by moving an adjournment.

Mr. EATON. I move an adjournment, and call for the yeas and nays. I intend to vote against the motion myself.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. MORRILL, (when his name was called.) I am paired with the Senator from Indiana, [Mr. McDONALD.] I do not know how he would vote; therefore I withhold my vote.

The call of the roll was concluded.

Mr. ANTHONY. I am paired with the Senator from Kentucky, [Mr. McCREERY,] who is absent; and although under ordinary circumstances I should not hesitate to vote for an adjournment, just as he was in the habit of doing, but as he has latterly varied his character by voting against adjournments several times, I do not know how he would vote now. So I decline to vote.

Mr. JONES, of Nevada. I was requested by the Senator from Maine [Mr. BLAINE] to state that he was paired with the Senator from Maryland, [Mr. WYTHE.]

Mr. MERRIMON. My colleague, [Mr. RANSOM,] whose health is delicate, felt constrained to leave the Senate Chamber ten minutes ago. He is unwell and has gone to his chamber.

Mr. DAWES. I am paired with the Senator from New Jersey, [Mr. McPHERSON.] How he would vote I do not know, and therefore I refrain from voting.

The result was announced—yeas 7, nays 28; as follows:

YEAS—7.

Allison,	Davis of W. Va.,	Jones of Nevada,	Teller.
Cameron of Wis.,	Hill,	Saunders,	

NAYS—28.

Bailey,	Davis of Illinois,	Grover,	Matthews,
Beck,	Eaton,	Harris,	Merrimon,
Burnside,	Edmunds,	Kellogg,	Paddock,
Cameron of Pa.,	Eustis,	Kernan,	Plumb,
Cockrell,	Ferry,	Kirkwood,	Spencer,
Coke,	Garland,	Lamar,	Thurman,
Conover,	Gordon,	McMillan,	Wadleigh.

ABSENT—41.

Anthony,	Dennis,	McPherson,	Saulsbury,
Barnum,	Dorsey,	Maxey,	Sharon,
Bayard,	Hamlin,	Mitchell,	Shields,
Blaine,	Hereford,	Morgan,	Voorhees,
Booth,	Hoar,	Morrill,	Wallace,
Bruce,	Howe,	Oglesby,	Whyte,
Butler,	Ingalls,	Patterson,	Windom,
Chaffee,	Johnston,	Randolph,	Withers.
Chandler,	Jones of Florida,	Ransom,	
Conkling,	McCreery,	Rollins,	
Dawes,	McDonald,	Sargent,	

The PRESIDING OFFICER. The Senate refuses to adjourn.

Mr. MATTHEWS. I move a call of the Senate.

The PRESIDING OFFICER. That is not in order. The Sergeant-at-Arms is executing the order of the Senate. The Chair lays before the Senate a report of the Sergeant-at-Arms.

The Secretary read as follows:

To the President of the Senate:

In obedience to the second order of the Senate in regard to the attendance of absent members, messengers communicating the command of the Senate have waited upon Senators DAVIS of West Virginia, CONKLING, SAULSBURY, BLAINE, McDONALD, MORRILL, DAWES, ANTHONY, and PATTERSON. Senators DAVIS, MORRILL, DAWES, and ANTHONY have reported in person. Senator BLAINE promised immediate attendance. Senator CONKLING would give no assurance of attendance. Senators McDONALD and PATTERSON were found at their lodgings sick. Senators BAYARD, BUTLER, HAMLIN, BARNUM, and CHANDLER did not open their doors. Other messengers have not reported.

JOHN R. FRENCH,
Sergeant-at-Arms.

Mr. EDMUNDS. That is what you call compelling the absentees, is it? That is a smart way of doing it!

Mr. HARRIS. I desire to inquire, if it be a parliamentary inquiry, and if it be not I still desire to inquire, if the Senate has no power under the Constitution and its own rules to compel the attendance of absent members?

The PRESIDING OFFICER. That is for the Senate to decide.

Mr. HARRIS. Do I understand the Chair to say the Senate has decided that it has no power?

The PRESIDING OFFICER. The Chair did not so say. The Chair said it was for the Senate to decide whether it has power to direct the Sergeant-at-Arms to compel the attendance of members. The Sergeant-at-Arms has made his report. The Sergeant-at-Arms is subject to the order of the Senate.

Mr. HARRIS. I do not know how to supplement the order that has already been made. The order is that the Sergeant-at-Arms be directed to compel the attendance of members of this body except the few that were excused in the order by reason of their indisposition.

The PRESIDING OFFICER. The Sergeant-at-Arms has been directed, according to that order, to execute the order of the Senate.

Mr. HARRIS. But has the Sergeant-at-Arms executed the order?

The PRESIDING OFFICER. That is for the Senate to decide when the Sergeant-at-Arms has made his report.

Mr. HARRIS. I beg to call the attention of the Senate to the report made by the Sergeant-at-Arms. The return of the Sergeant-at-Arms refers to a few Senators, some of whom are on the floor, some of whom have not appeared; but as to the larger number of Senators absent there is no report from the Sergeant-at-Arms.

The PRESIDING OFFICER. The Sergeant-at-Arms has not completed the execution of the order; he has reported as far as he has gone.

Mr. HARRIS. If the Sergeant-at-Arms needs more time to execute the order I have no complaint to make; but I desire that he shall execute it in good faith and to the fullest extent.

The PRESIDING OFFICER. The Sergeant-at-Arms desires to know of the Senate what is his duty if on applying to the residence and at the doors of Senators who are absent they decline to respond personally. Is he authorized to force entrance and compel the Senators to attend?

Mr. ANTHONY. Mr. President, I believe this is one of the few cases in which the military can be used, not excepted from any of the bills we have passed. [Laughter.] I suggest to the Senator from Tennessee that the military force, what there is left of it, be employed for that purpose. [Laughter.]

Mr. HARRIS. A very fine suggestion from the Senator from Rhode Island! I do not feel inclined to resort to it unless the Senator from Rhode Island is ready to admit that the officer of this body is wholly incompetent and unable to perform the duties that the Constitution and the rules of this body impose upon him. It is quite unnecessary to ask for the intervention of the Army to enforce the order of this

body unless the officer selected by this body charged with the performance of the duty is incompetent or unable without such aid.

Mr. ANTHONY. Mr. President, would the Senator have the Sergeant-at-Arms intrude into the chambers of Senators and take them out of bed and bring them up here?

Mr. HARRIS. I do not understand the question.

Mr. ANTHONY. I ask if the Senator from Tennessee would have the Sergeant-at-Arms intrude into the chambers of Senators and bring them here by force?

Mr. HARRIS. The Constitution of the United States, if the Senator will allow me, gives the power to this body to compel the attendance of members. The rules of this body confer the same power. And when the public business demands the attention of Senators, I hold that no Senator has a right to absent himself from this Chamber until the adjournment of this body; and if he does so, I hold that under the Constitution of the United States and the rules of this body we have the power to compel his attendance; and if it involves the invasion of his private residence to do so, the power exists, and it must be enforced if Senators will not leave a quorum in this body, or else the public business must suffer or remain unattended to. For one, I am in favor of attending to it.

Mr. VOORHEES. A moment, Mr. President. The Senator from Rhode Island [Mr. ANTHONY] resorts to an easy mode of argument; he puts a question involving an extreme case. I will resort to the same method. I ask him, as a Senator of long standing, when other Senators go home and stay there—

Mr. MORRILL. At a long sitting, I would suggest.

Mr. VOORHEES. Yes, at a long sitting; and if it should so happen that these Senators, to put it in his own language, should shut their doors against our call on them, and say they were tired, and should turn the officer of this body away, what would he do?

Mr. ANTHONY. Well, Mr. President, I would depute the Senator from Tennessee and the Senator from Indiana as assistants to the Sergeant-at-Arms to bring up the absent Senators.

Mr. VOORHEES. That is not a fair answer, and everybody understands that it is not an answer at all. It is mere trifling, and strikingly in accord with the puerile and trifling manner in which we have been proceeding to-night. Sir, shall the Senate of the United States be prorogued, shall it be abolished, because men choose to stay away? That is the question. How does the Senator from Rhode Island answer it?

Mr. ANTHONY. I would adjourn.

Mr. ALLISON. I rise to a question of order.

Mr. VOORHEES. You would adjourn. That you call an answer.

Mr. ALLISON. Mr. President—

The PRESIDING OFFICER. The Senator from Iowa rises to a point of order.

Mr. ALLISON. I desire to know what the pending question is.

The PRESIDING OFFICER. Debate is out of order if the Senator from Iowa makes the point.

Mr. VOORHEES. Well, what do you want to do?

Mr. ALLISON. I want to proceed with business.

Mr. VOORHEES. So do I if we have a quorum.

Mr. ALLISON. I desire to proceed with business.

Mr. VOORHEES. That is not a fair objection. The Senator from Iowa knows very well that we cannot proceed.

Mr. MORGAN. I ask for the reading of the report of the Sergeant-at-Arms.

The PRESIDING OFFICER. The report will be read.

The Secretary read as follows:

To the President of the Senate:

In obedience to the second order of the Senate in regard to the attendance of absent members, messengers communicating the command of the Senate have waited upon Senators DAVIS, of West Virginia, CONKLING, SAULSBURY, BLAINE, McDONALD, MORRILL, DAWES, ANTHONY, and PATTERSON. Senators DAVIS, MORRILL, DAWES, and ANTHONY have reported in person. Senator BLAINE promised immediate attendance. Senator CONKLING would give no assurance of attendance. Senators McDONALD and PATTERSON were found at their lodgings sick. Senators BAYARD, BUTLER, HAMLIN, BARNUM, and CHANDLER did not open their doors. Other messengers have not returned.

JOHN R. FRENCH,
Sergeant-at-Arms.

Mr. MORGAN. I desire to present to the Senate a question in regard to Senator CONKLING. He would give no assurance that he would come. I should like to know how long the Senate of the United States have to wait for the attendance of that Senator? While he would not give any assurance of his attendance, the Sergeant-at-Arms has returned, and the Senator from New York is not in his place. Why he should have a right to be absent beyond the right of any other Senator to be absent I do not know. When the Sergeant-at-Arms reports that the Senator would give no assurance that he would come, I suppose the Senate of the United States might consider the question whether it is right for a Senator to say he will give no assurance. I am quite sure that if I had been absent, as I believe I have never been, and the Senate had sent this summons to me, and I had returned such an answer, the next expectation on my part would have been that there would be some exercise of legal and constitutional authority and power to compel my attendance before this body. There is no excuse presented for his absence at the hands of that Senator; but he not only rejects the summons, but says in terms, if reported truly by the Sergeant-at-Arms, that he does not mean to respect—

Mr. ALLISON. Is debate in order?

The PRESIDING OFFICER. It is not. The Senator from Iowa objects to debate.

Mr. MORGAN. Perhaps I am wrong in undertaking to debate the proposition; but I move that the Sergeant-at-Arms be directed to bring Mr. CONKLING into the Senate. My motion is specific. I have not heard in that report of any other person who has defied the power of the Senate and refused to come at its command. Therefore my motion is that the Senator from New York be required to come to the Senate under the command which has heretofore been made and with which he has refused to comply.

The PRESIDING OFFICER. The Senator from Alabama will reduce his motion to writing.

Mr. THURMAN. Mr. President, I believe there is a quorum present. To ascertain that, I move a call of the Senate.

The PRESIDING OFFICER. A call is not in order. The Senator can move an adjournment.

Mr. HILL. Cannot a motion be made to dispense with further proceedings under the call?

The PRESIDING OFFICER. It can; that is in order.

Mr. EATON, (at three o'clock and twelve minutes a. m.) Mr. President, it seems to me that my friend from Alabama on reflection will hardly single out one member of the Senate for the purpose of enforcing this rule of the Constitution and of the Senate.

Mr. MORGAN. The Senator will allow me. I ask for the reading of that part of the report which relates to the Senator from New York.

The PRESIDING OFFICER. The Secretary will report.

Mr. EATON. If my friend will excuse me, not now.

The PRESIDING OFFICER. The Senator from Connecticut is entitled to the floor.

Mr. EATON. I know what it was, and I do not care to hear it now. My own impression is that it would be better for the Senate to make a general order calling upon the Sergeant-at-Arms to enforce the attendance of absent Senators who are able to be here. I remember distinctly what my friend from Alabama desires to have read. I remember that the report of the Sergeant-at-Arms was that Mr. CONKLING gave no assurance that he would be here. Neither did others so far as I know. I am not told that they did, except that some have come, others shut their doors and would not answer. It strikes me there should be no distinction between the one and the other. Therefore I think it would better become the Senate of the United States to make a general order rather than single out one particular individual.

Mr. MORGAN. I should be very glad if a general order could be made; but there is an evident purpose on the part of the Senators who have absented themselves without the consent of the Senate to stay away. The Senator from New York, as the Sergeant-at-Arms has reported, would give no assurance that he meant to come here. The Senate does not exactly demand an assurance from an absent Senator whether he will be here or whether he will not. There may be Senators who have locked themselves in their rooms, and they may have other reasons than these for denying the right of the Senate of the United States to demand their presence. I cannot conceive what their reasons may be; but we have an answer from the Senator from New York, and that is that he would give no assurance that he would be here.

Well, Mr. President, this is either a Senate or it is not a Senate; it is either a part of this Government or else it is not. It has its right to enforce its orders or it has not. And it seems to me that there depends upon this proposition something that connects itself materially with the preservation of this Government.

Now, upon the bill before the Senate it may have been discovered that I, who am a Senator from the very extreme South and of that region which has been most afflicted with the disease which we are trying to check by legislative action, have been all the time opposed to this measure because I thought that the measure was an invasion in some respects of the Constitution of the United States, and I doubted whether it would tend in the slightest degree, it would have the effect desired, to ward off the danger which is apprehended. I am not disposed to decline any benefit which might come to our region from the passage of any measure that Congress might have the power to pass for our relief. Still, in my conscientious judgment, there are provisions of this bill which I have been compelled to dissent from, and I dare say I have encountered the opposition of gentlemen who are interested in it, and perhaps I shall have to encounter a vast display of opposition on the part of those who may think that I have stood against their interests; and if in the next summer there should be developed a reproduction of that terrible disease which has destroyed already its twenty or thirty thousand people, and if that disease should progress, as it may, I shall have to bear the brunt of that obloquy. Yet I have tried to stand to-night in faithful compliance with my duty as a Senator and in obedience to my oath to support the Constitution of the United States in opposition to some parts of the measure advocated here to-night which I conceived were violative of the Constitution. So it will not be understood by the Senate that my position at this time is an advocacy of the passage of the bill. I have felt myself entirely free from any motive or interest in reference to the passage of the bill on this matter; but the Senate has made a respectful demand for the attendance of Senators. That demand has been sent to the Senators who have been absent from this body for one reason or another; I know not what the reasons

may be. That respectful demand on the part of the Senate has been met with an assurance on the part of Senators that they did not care whether they came or whether they did not come. Then the question comes flatly and squarely whether or not this be a Senate of the United States. If this be one of the legislative powers of this country, if this be one of those powers which command the respect of the people of the United States, and after it has adopted courtesy it is met with defiance, then I must say that, as a Senator, while I remain here I must vote to sustain the constitutional authority and power of this branch of the legislative department of this country against all opposers. I do not know the man who has the power to triumph over the Constitution with my consent; and when the constitutional powers conferred upon the Senate has been formulated in rules, and those rules have been abided by in the spirit of decorum and courtesy, I do not know the man, whether he be great or small, who has the right to stand against the enforcement of those rules.

I have stood by to-night, Mr. President, and voted earnestly, consistently, and in that sort of spirit and feeling which I thought was courteous to the Senate of the United States, and I rejected, so far as my vote was concerned, all propositions that led to extreme measures. I urged that the Sergeant-at-Arms should be sent out to inform Senators that their presence was needed, to invite Senators to come to this body, to ask them to return to that constitutional duty which binds them to service in the Senate until the Senate has excused them, or at least until there has been something occurring in their personal history which would necessarily and naturally excuse them. We have waited until a late hour to-night. It makes no difference to me whether it is late or early, but we have waited and waited patiently, and sent the officers of this body to inform Senators that their presence was required here, and one of them informs us that he will come at his will and pleasure. Now, Mr. President, the question arises whether one man dominates the Senate or whether the Senate has power to discharge its duty to the Government.

Mr. HARRIS. Mr. President, if the Senator from Alabama will allow me, I desire to suggest that in the execution of this order I do not think it is proper for us to look to any one particular individual Senator; but if the order as it now stands is not equal to the necessity of the occasion, the order had better be enlarged so as to order the Sergeant-at-Arms not only to compel the attendance of members, but in addition thereto, if such an order be necessary, that he use whatever means is necessary to the execution of that order, and let it apply to all Senators except those who have been excused from the order by reason of their indisposition. I do not think there is any propriety, if the Senator from Alabama will allow me to say so, in undertaking to discuss the absence or presence of any individual Senator, but let the order apply to all absent Senators.

Mr. MORGAN. Well, Mr. President, I would insist on the order as it was.

Mr. KERNAN. Allow me to make a suggestion. I am quite satisfied that none of these gentlemen who have not yet got here intend to disregard the Constitution or their duty, or in any way to defy this body. I do not think we need any assurance that they will come. We are to presume they will come as soon as they can. I think we have got a quorum now. I think instead of discussing these topics we had better either proceed to business or do something else. Some gentlemen paired and went away, not expecting that they would be called on; and when awoke at three o'clock in the morning they would not be disposed to discuss the matter with a messenger, and would very naturally say they would come when they pleased. I trust we shall proceed to business. I think there is a quorum here now.

Mr. MORGAN. Mr. President—

Mr. THURMAN. I ask my friend from Alabama to allow me to make a suggestion. I am very apprehensive, Mr. President, on a careful examination of the Constitution and the rules, that we have sat here in vain. I am sorry to say it, but I fear that is the case. The Constitution—and that is our sole authority to compel the attendance of absent Senators—provides that "a smaller number"—smaller than a majority—"may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each House may provide." This is not a power on the part of a minority to compel the attendance of absent members in its own discretion or in such mode as it may see fit; but it is only a power to compel their attendance in such manner and under such penalties as the House may provide, as for instance the Senate may provide—not as Congress may provide, but as each House for itself may provide. Therefore, were there no rule of the Senate on this subject, we should have no power whatever to compel the attendance of an absent member, for we are only authorized to compel his attendance in such manner and under such penalties as the Senate may provide. We are therefore remitted to the rule to see what is the manner in which the attendance of absent members may be compelled, and what are the penalties for non-attendance. I may say at once that there are no penalties provided in our rules; but our rule is simply this:

No Senator shall absent himself from the service of the Senate without leave of the Senate first obtained. Whenever it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant-at-Arms to request, and, when necessary, to compel the attendance of the absent Senators—

Mr. MORGAN. What rule does the Senator from Ohio read?

Mr. THURMAN. Rule 3—

which order shall be determined without debate; and pending its execution, and

until a quorum shall be present, no motion except a motion to adjourn, nor debate, shall be in order.

This rule provides the manner in which we may compel the attendance of absent members. It is that a majority of those present may direct the Sergeant-at-Arms to request, and when necessary to compel, the attendance of the absent Senators. Undoubtedly, Mr. President, that gives the Sergeant-at-Arms, when ordered by the Senate, power to arrest an absent Senator and bring him to the bar of the Senate. But then the question arises, in the execution of his power to arrest what may he do? May he break in a door? May he break the outer door of a dwelling? Or, having got into the dwelling, may he break the inner door? May he do all that a sheriff or a marshal may do in the execution of a writ for the arrest of a criminal or a man guilty of felony?

Mr. President, I am very fearful that this rule of ours is very imperfect on this subject. I should not like to be in the condition of the Sergeant-at-Arms of the Senate if I were upon this rule to break in the door of a house in order to arrest a Senator and bring him here. I have no doubt that if he, without the breaking of a door, without anything of that kind, finds a Senator he may arrest him and bring him here; but whether he has the same power as an officer who is charged with the arrest of a man guilty of a felony to authorize him to break doors to get at him as best he can, I must confess that I am very doubtful about under this rule.

Now, Mr. President, one word more. There is no member of this Senate perhaps who suffers as much from these long night sessions as I do, and there is no one who has felt more unwilling after we have embarked upon this effort to procure a Senate to relax our effort. I have a great dislike for child's play. I have thought that it was beneath the dignity of the Senate, unworthy of the Senate, that it tended to make us absurd and ridiculous and contemptible in the eyes of the country, to give up this attempt to get a quorum; and after having gone so far, I still think so, and I am willing to sit here until eleven o'clock and try to get a quorum, although I know full well that we shall not perhaps have gained any time then in the transaction of the public business, for exhausted men are as no men. Yet, Mr. President, I think it is due to the Senate that it should ascertain once for all whether its rules can be enforced or not, and if they cannot be then such amendments should be made as shall secure their enforcement. And yet I shrink with horror at the idea of breaking down the door of a man's chamber and dragging him out of his bed, and he a Senator of the United States, to bring him here in order to make a quorum! If there is a man in the whole Senate who would have to be dragged here in that way, the very fact that he is a Senator would be a disgrace to the body and a disgrace to the nation.

Mr. President, I thought that a call of the Senate was in order, because I thought that at any time it was right for the presiding officer to ascertain whether there is a quorum. Perhaps I was wrong about that. Having made an order to require the attendance of the absent Senators, the fact that there was a quorum here would not of itself suspend the call, and, therefore, on reflection I am satisfied the ruling of the Chair was correct; but in order that we may ascertain whether there is a quorum, and if there is that we may have an end to a proceeding that I will not call disgraceful, because I do not want to use harsh words, I move that further proceedings under the call be dispensed with, and on that motion I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Ohio moves that further proceedings under the call be dispensed with.

Mr. MORGAN. I did not yield the floor to the Senator from Ohio to make that motion.

The PRESIDING OFFICER. The Chair reminds the Senator from Alabama that he was out of order in debating; it was only by unanimous consent that he was heard. The Senator from Ohio had a right to make his motion, and in the form of an objection the Senator from Ohio moves that further proceedings under the call be dispensed with.

Mr. KIRKWOOD. I should like to say one word. I have not spoken to-night.

Mr. MORGAN. I yielded to the Senator from Ohio for some remarks.

Mr. THURMAN. I want to say that I shall vote against the motion.

The PRESIDING OFFICER. Has the Senator from Ohio withdrawn his motion?

Mr. THURMAN. No, sir. I made the motion, but I wish it to be distinctly understood that I shall vote against it.

Mr. MORGAN. Is it the pending motion?

Mr. KIRKWOOD. Will the Senator from Alabama allow me to make one remark?

Mr. MORGAN. If I am not ousted from the floor by another motion, I will do it.

Mr. KIRKWOOD. Justice to an absent Senator requires that I should say a word. The Senator from Michigan [Mr. CHANDLER] left the Chamber at an early hour this evening quite unwell, and I take some reproach to myself that I did not mention it before when the Sergeant-at-Arms was sent to bring in absent Senators. When the Senator from Michigan left he was complaining of feeling quite unwell. I should have mentioned it before, so that any blame that may be attached for non-attendance here shall not attach to him.

Mr. MORGAN. Mr. President—

The PRESIDING OFFICER. The Senator from Alabama moved that the Sergeant-at-Arms be instructed to compel the attendance of the Senator from New York, pending which the Senator from Ohio moves to suspend all proceedings under the call. That has priority,

covering the whole question. The Senator from Ohio moves that further proceedings under the call be dispensed with.

Mr. MORGAN. I do not know why or how the Senator from Ohio has the right to take the floor from me.

Mr. THURMAN. If my making that motion was any breach of the privilege of the Senator from Alabama, I withdraw it.

Mr. MORGAN. I had a motion pending, and I was discussing that motion.

The PRESIDING OFFICER. The motion of the Senator from Ohio is withdrawn.

Mr. MORGAN. My motion was in order, as I understand.

The PRESIDING OFFICER. The motion was in order but not debatable.

Mr. PADDOCK. What is the question, Mr. President?

The PRESIDING OFFICER. The Senator from Alabama has moved that the Senator from New York—

Mr. HARRIS. With the permission of the Senator from Alabama, I desire to inquire of the Chair if the motion that I suggested as a substitute for the motion of the Senator from Alabama will be in order; that is, that the Sergeant-at-Arms be instructed, in addition to the order under which he is now acting, to use all necessary means to the execution of that order? Will that be in order as a substitute for the motion of the Senator from Alabama?

The PRESIDING OFFICER. It will.

Mr. HARRIS. If so, I make that motion.

The PRESIDING OFFICER. The Senator from Tennessee only suggested it before to the Senator from Alabama. He now puts it in the form of a substitute, and it is in order.

Mr. MORGAN. Mr. President—

The PRESIDING OFFICER. The Chair will remind the Senator from Alabama that debate is not in order.

Mr. MORGAN. What is the substitute?

Mr. HARRIS. The substitute I offered for the motion of the Senator from Alabama is that the Sergeant-at-Arms be instructed to use all necessary means to execute the order under which he is now acting.

Mr. MORGAN. I make a point of order upon that. The resolution of the Senate under which the Sergeant-at-Arms was acting comprehended all that the Senator from Tennessee is now desirous of accomplishing.

The PRESIDING OFFICER. That is a question of construction, which is for the Senate.

Mr. HARRIS. I desire, if it is in order, to state that I understand the Sergeant-at-Arms did not so understand the order under which he was acting. If he has made, then, a wrong construction of the order, I desire to put the order in a shape that he cannot construe it wrongly. He is mistaken in his construction, and he may be very properly mistaken.

The PRESIDING OFFICER. The Chair reminds Senators debate is out of order. The Chair overrules the point of order made by the Senator from Alabama. The motion of the Senator from Tennessee is in order. The question is on the substitute proposed by the Senator from Tennessee, that all the absentees be covered in the proposition of the Senator from Alabama; that the Sergeant-at-Arms be instructed to compel their attendance, and use all necessary means for that purpose.

Mr. KIRKWOOD. I hope the Senator from Michigan will be excepted from that for the reason I have stated.

The PRESIDING OFFICER. Shall Senator CHANDLER be excepted?

Mr. HARRIS. On the statement made by the Senator from Iowa, I think he ought to be excepted, and I shall gladly except him.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. GARLAND. I wish to make a similar statement to that made by the Senator from Iowa in regard to the Senator from Indiana, [Mr. McDONALD], who, I know, left the Hall sick.

Mr. HARRIS. I am glad to except him also.

The PRESIDING OFFICER. Shall the Senator from Indiana be excepted? The Chair hears no objection, and those two Senators are excepted.

Mr. THURMAN. Now I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Ohio asks for the yeas and nays on the amendment of the Senator from Tennessee to the motion of the Senator from Alabama.

Mr. THURMAN. In order to ascertain if there is a quorum.

The yeas and nays were ordered.

Mr. MORRILL. As the Senator from Indiana [Mr. McDONALD] is excused and I am paired with him, I ask to be excused myself.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator from Vermont is excepted, being paired with the Senator from Indiana.

Mr. VOORHEES. May I ask what the precise question is on which we are to vote?

The PRESIDING OFFICER. The Senator from Alabama moves that the Sergeant-at-Arms be required to compel the attendance of the Senator from New York, pending which the Senator from Tennessee moves that all the absentees be included in the order to the Sergeant-at-Arms.

Mr. VOORHEES. We have been here now nearly all night. I think after staying here all night and not pretending to exercise the power the Constitution has given us, it would be unseemly and im-

proper now, in view of what is due to courtesy, to rouse people out of bed. I hope this will not be done. My friend from Ohio—

The PRESIDING OFFICER. The Chair is compelled to remind the Senator from Indiana, as he has other Senators, that debate is out of order.

Mr. VOORHEES. I am not debating anything. [Laughter.]

The PRESIDING OFFICER. The Chair supposed the Senator was. The question is on the amendment proposed by the Senator from Tennessee to the motion of the Senator from Alabama, on which the yeas and nays have been ordered.

Mr. PADDOCK. I should like to inquire what the motion of the Senator from Alabama was?

The PRESIDING OFFICER. That the Sergeant-at-Arms be instructed to compel the attendance of the Senator from New York.

Mr. PADDOCK. If the Senator from Alabama is present—I do not know whether he is or not—I should like to know upon what theory he made an exception of the Senator from New York?

Mr. HARRIS. I beg to state to the Senator from Nebraska that my motion makes no exception of any Senator, except certain Senators who are reported to be ill. The Senator from New York is not one of them.

Mr. PADDOCK. I have no objection to the motion of the Senator from Tennessee.

Mr. GORDON. I call for order. This debate is out of order.

The PRESIDING OFFICER. The Senator from Georgia calls for order. The Chair cannot inform the Senator from Nebraska as to the theory of the motion of the Senator from Alabama.

Mr. PADDOCK. The theory is what I inquire about. If the Senator is not present, of course I shall not be able to get a response.

The PRESIDING OFFICER. The question is on the motion of the Senator from Tennessee.

Mr. HARRIS. I rise to make an inquiry, which is, was there a quorum present upon the last call of the yeas and nays?

The PRESIDING OFFICER. There was not.

Mr. BECK. Mr. President, would it be in order now, so as to see whether we have a quorum or not, to move that all further proceedings in the call be dispensed with?

The PRESIDING OFFICER. It would, but the yeas and nays have been ordered on this motion which will reveal the fact. The question is on the amendment of the Senator from Tennessee to the motion of the Senator from Alabama.

The Secretary proceeded to call the roll.

Mr. MORRILL, (when his name was called.) I am paired with the Senator from Indiana, and the Senate has excused me. Therefore I decline to vote.

Mr. VOORHEES, (when Mr. McDONALD's name was called.) My colleague [Mr. McDONALD] is paired with the Senator from Vermont, [Mr. MORRILL.] I make this remark for fear that the remark of the Senator from Vermont might be misunderstood as applying to me. I vote "yea."

The roll-call was concluded.

Mr. MAXEY. On last Saturday the Senator from New Jersey [Mr. RANDOLPH] sent his son to me to notify me that he was sick. Since then he has not been here, and if there be any call I desire that he should be excused.

Mr. MERRIMON. My colleague [Mr. RANSOM] being in ill-health, has been compelled to leave the Chamber, as I before stated.

The result was announced—yeas 32, nays 10; as follows:

YEAS—32.

Allison,	Conover,	Grover,	McMillan,
Bailey,	Davis of Illinois,	Harris,	Matthews,
Beck,	Davis of West Va.,	Hill,	Maxey,
Booth,	Eaton,	Jones of Florida,	Merrimon,
Cameron of Pa.,	Eustis,	Kellogg,	Spencer,
Cameron of Wis.,	Ferry,	Kernan,	Thurman,
Cockrell,	Garland,	Kirkwood,	Voorhees,
Coke,	Gordon,	Lamar,	Wadleigh.

NAYS—10.

Burnside,	Howe,	Oglesby,	Saunders,
Dawes,	Jones of Nevada,	Paddock,	Teller.
Edmunds,	Morgan,		

ABSENT—34.

Anthony,	Dennis,	McPherson,	Saulsbury,
Barnum,	Dorsey,	Mitchell,	Sharon,
Bayard,	Hamlin,	Morrill,	Shields,
Blaine,	Hereford,	Patterson,	Wallace,
Bruce,	Hoar,	Plumb,	Whyte,
Butler,	Ingalls,	Randolph,	Windom,
Chaffee,	Johnston,	Ransom,	Withers.
Chandler,	McCreery,	Rollins,	
Conkling,	McDonald,	Sargent,	

The PRESIDING OFFICER. The amendment is agreed to. The question recurs on the motion of the Senator from Alabama as amended.

Mr. KERNAN. Inasmuch as the call shows that a quorum is present, I think now we can act on this bill and dispose of it. Let us accomplish what we can. Therefore, I move that all further proceedings under the order be suspended.

The PRESIDING OFFICER. The Senator from New York moves that further proceedings under the order of the Senate be suspended.

Mr. THURMAN. I believe our rule is fatally defective in not providing the manner to enforce the attendance of Senators; and in the interest of public business I shall vote for the motion of the Senator from New York.